Nelson.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES

No. ~~450.~~ 203

JOHN W. WATKINS, HANIBAL H. CHASE, AND SOLOMON H. PHILLIPS, PLAINTIFFS IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

FILED JANUARY 14, 1869.

arg? April 26/70

SUPREME COURT OF THE UNITED STATES.

No. 430.

JOHN W. WATKINS, HANIBAL H. CHASE, AND SOLOMON H. PHILLIPS, PLAINTIFFS IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

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1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday of April, in the year of our Lord one thousand eight hundred and sixty-five—present, the Honorable S. P. Chase, Chief Justice of the Supreme Court of the United States; William F. Giles, judge Maryland district; William Price, esquire, attorney; Washington Bonifant, esquire, marshal; James W. Chew, clerk—among other were the following proceedings, to wit:

JOHN W. WATKINS, HANNIBAL H. CHASE, & Solomon H. Phillips,
vs.
THE UNITED STATES.

Be it remembered that heretofore, to wit, on the 31st day of January, in the year of our Lord one thousand eight hundred and sixty-five, the said John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, by Robert I. Brent and William M. Addison, their attorneys, filed in the circuit court here a record from the district court of the United States in and for the Maryland district, in the words and of the tenor
2 following, to wit:

Record from district court.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty-four—present, the Honorable William F. Giles, judge Maryland district; William Price, esquire, attorney; Washington Bonifant, esquire, marshal; James W. Chew, clerk—among other were the following proceedings, to wit:

THE UNITED STATES
vs.
JOHN W. WATKINS, HANNIBAL H. CHASE, Solomon H. Phillips.

Be it remembered that heretofore, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the said United States of America, by William Price, esquire, attorney of the said United States for the district of Maryland, prosecuted and sued forth out of the district court here, the writ of the United States of America, of summons, directed to the marshal of the
3 Maryland district, in the words and of the tenor following, to wit:

(Summons.)

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the marshal for the Maryland district, greeting:

{ SEAL'S } { PLACE. } We command you that you summon John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, late of the city and county of Baltimore, State of Maryland, and district aforesaid, if they shall be found in your district, that, all excuses

and delays set aside, they be and appear before the district court of the United States in and for the Maryland district, to be held at the city of Baltimore, on the first Tuesday in March next, to answer unto the United States of America of a plea that they render unto the said United States of America the sum of twenty thousand dollars, lawful money of the United States, which they owe to, and from them unjustly detain, &c. Hereof you are not to fail at your peril, and have you then and there this writ.

Witness the Honorable William F. Giles, judge of our said district court, the first Tuesday in December, in the year of our Lord one thousand eight hundred and sixty-two.

Issued 30th December, 1862.

W. P. THOS. SPICER, *Clk Cir. Ct.*

And the said United States, by their attorney aforesaid, on the
4 day of prosecuting and suing forth the foregoing writ, declared against the said John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, in the plea aforesaid, in form following, to wit:

Declaration.

UNITED STATES OF AMERICA,
District of Maryland, to wit:

John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, late of the city and county of Baltimore, State of Maryland, and district aforesaid, were summoned to answer the said United States of America of a plea that they render unto the said United States the sum of twenty thousand dollars, lawful money of the said United States of America, which to them they owe, and from them unjustly detain, &c. And thereupon the said United States of America, by William Price, their attorney, complain: For that whereas the said John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, heretofore, to wit, on the seventh day of April, eighteen hundred and fifty-seven, at the district aforesaid, to wit, at and in the city and county of Baltimore & State of Maryland, by their certain writing obligatory, sealed with their seals, and now shewn to the court here (the date whereof is the day and year aforesaid), acknowledged themselves to be held and firmly bound unto the said United States of America in the sum of twenty thousand dollars, lawful money of the said United States of America, above demanded, to be
5 paid to the said United States of America, with and under a certain condition to the said writing obligatory subscribed; whereby, after reciting that whereas the President of the United States hath, pursuant to law, appointed the said John W. Watkins to be marshal of the United States for the district of Maryland, to have and to hold the same, with all the rights, privileges, and emoluments thereunto lawfully appertaining, for four years from the first day of April, eighteen hundred and fifty-seven, unless sooner removed therefrom, as by a commission to him, bearing date the 28th day of March, eighteen hundred and fifty-seven, more fully appears, it was and is declared that if the said John W. Watkins, by himself and by his deputies, shall faithfully perform all the duties of the said office of marshal, then the said obligation to be void; otherwise to remain in full force and virtue. And the said United States of America in fact aver that it was by law the duty of the said John W. Watkins, as marshal of the district aforesaid, to make true returns of all the public moneys belonging to the said United States of America by him had and received, and which came to his

hands in and during the said term of his office. And it was also the duty of the said John W. Watkins, as marshal aforesaid, to render his accounts quarter-yearly to the proper accounting officers of the treasury of the said United States, with the vouchers necessary to the
6 correct and prompt settlement thereof, within three months at least after the expiration of each successive quarter. And it was the further duty of the said John W. Watkins, as marshal aforesaid, to pay into the treasury of the said United States all the sums or balances of the public moneys reported to be due to the said United States, upon the adjustment of his accounts in the Treasury Department of the said United States. And it was also the duty of the said John W. Watkins, as marshal aforesaid, at each return aforesaid, made by him to the said Department of the Treasury, to pay into the said treasury of the said United States, or to deposit to the credit thereof, all surplus and emoluments of his said office, which his half-yearly returns, so made as aforesaid, should show to exist over and above the allowances authorized to be retained by him. Nevertheless for assigning breaches of the said condition of the said writing obligatory, the said United States in fact aver that the said John W. Watkins did not faithfully perform all the duties of the said office of marshal according to law, and the form and effect of the said condition of the said writing obligatory in this, to wit: That the said John W. Watkins did not make true returns of all the public moneys belonging to the said United States by him had and received, or which came to his hands in and during the said term of his office; nor did the said John W. Watkins, as marshal aforesaid,
7 render his accounts quarter yearly to the proper accounting officers of the treasury of the said United States, with the vouchers necessary to a correct and prompt settlement thereof, within three months after each successive quarter. Nor did the said John W. Watkins, as marshal aforesaid, pay into the said treasury of the said United States all the sums and balances of the public moneys reported to be due to the said United States, upon the adjustment of his accounts in the said Treasury Department of the said United States. Nor did the said John W. Watkins, as marshal aforesaid, at each return aforesaid made by him to the said Department of the Treasury of the said United States, pay into the said Treasury Department, or deposit to the credit thereof, all the surplus of fees and emoluments of his said office which his half-yearly returns, so made as aforesaid, did show to exist over and above the allowances authorized to be retained by him. But, on the contrary thereof, the said John W. Watkins wholly neglected and made default therein, by means of which said premises the said United States of America have sustained damages to a large amount, to wit, to the amount of twenty-five thousand dollars; by reason of which said breaches the said writing obligatory became forfeited, and thereby an action hath accrued to the said United States of America to demand and have of the said John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips, the sum of twenty-five thousand dollars, lawful money of the
8 said United States, above demanded. Yet the said John W. Watkins, Hannibal H. Chase, and Solomon H. Phillips (although often requested so to do) have not yet paid the said sum of twenty-five thousand dollars above demanded, or any part thereof, to the said United States of America; but to pay the same have hitherto wholly refused and still do refuse, to the damage of the said United States of America of twenty-five thousand dollars, lawful money of the said United States; and therefore they bring their suit, &c.

WM. PRICE,
U. S. District Attorney for Maryland District.

The writing obligatory, referred to in the foregoing declaration, is as follows, to wit:

Know all men by these presents, that we, John W. Watkins, Hannible H. Chase, and Solomon H. Phillips, of the city of Baltimore, in the State of Maryland, are held and firmly bound unto the United States of America in the sum of twenty thousand dollars, lawful money of the said United States, to be paid to the said United States; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Signed with our hands and sealed with our seals this seventh day of April, 1857.

The condition of the above obligation is such, whereas the President of the United States hath, pursuant to law, appointed the said John W. Watkins to be marshal of the United States for the district
9 of Maryland, to have and to hold the same, with all the rights, privileges, and emoluments thereunto lawfully appertaining, for four years from the first day of April, 1857, unless sooner removed therefrom, as by a commission to him, bearing date the 28th day of March, 1857, more fully appears.

Now if the said John W. Watkins, by himself and by his deputies, shall faithfully perform all the duties of the said office of marshal, then this obligation to be void; otherwise remain in full force.

JOHN W. WATKINS. [SEAL.]
H. H. CHASE. [SEAL.]
S. H. PHILLIPS. [SEAL.]

Signed, sealed, and delivered in the presence of—
D. VANCE.

Which said bond has the following endorsement, to wit:

DISTRICT ATTORNEY'S OFFICE,
Baltimore, April, 1857.

The form of the within bond is approved this sixteenth day of April, 1857.
WM. MEADE ADDISON,
U. S. Attorney Md. District.

Upon evidence furnished me, which is satisfactory, I approve the sureties to the within bond as sufficient for the amount thereof, and order the same to be filed and recorded.

WILLIAM F. GILES,
District Judge of the U. S. for Maryland.

Bond approved 7th April, 1857.

WILLIAM F. GILES.

10 A copy of which said declaration was made and sent, with the said writ, to the marshal of the district aforesaid, thereon endorsed, "To be left with the defendants."

At which mentioned first Tuesday of March, in the year of our Lord one thousand eight hundred and sixty-three, being the day of the return of the foregoing writ, comes into the district court here the said United States of America, by their attorney aforesaid; and the marshal of the district aforesaid, to wit, Washington Bonifant, gentleman, to whom the foregoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

"All summoned except Phillips, who is deceased.

"WASH'N BONIFANT, *U. S. Marshal.*"

And the said John W. Watkins and Hannibal H. Chase, being called, appear in court here, by William M. Addison, esquire, their attorney.

And afterwards, to wit, on the fourteenth day of March, in the year last aforesaid, the following agreement was filed in the district court here, to wit:

No. 1.

THE UNITED STATES *vs.* J. WESLEY WATKINS & OTHERS. } In the United States district court for the Maryland district.

No. 2.

SAME *vs.* J. WESLEY WATKINS & OTHERS. } Do.

11

No. 3.

SAME *vs.* J. WESLEY WATKINS & OTHERS. } Do.

It is agreed that the above cases may be transferred to the circuit court of the United States for the fourth circuit in & for the Maryland district, and be for trial at April term, 1863.

WM. PRICE, *for the U. States.*
WM. MEADE ADDISON,
Att'y for Defendants

14 MARCH, 1863.

And afterwards, to wit, on the fourth day of April, in the year last aforesaid, the following order was filed in the circuit court of the United States for the fourth circuit in and for the Maryland district, to wit:

Circuit court of the United States for the Maryland district.

THE UNITED STATES *vs.* JOHN W. WATKINS, HANNIBAL H. CHASE, Solomon H. Phillips.

Mr. SPICER: Docket this case as of the April term, 1863.

WM. PRICE,
U. S. Dist. Att'y.
W. M. ADDISON,
Attorney for Defendant.

12 And now here, at this day, to wit, on the first Monday of April, in the year last aforesaid, come into the said circuit court here, as well the said United States, by their attorney aforesaid, as the said John W. Watkins and Hannibal H. Chase, by their attorney aforesaid.

And thereupon the said United States, by their attorney aforesaid, pray that the said defendants may answer to the declaration of them, the said United States, in the plea aforesaid; whereupon it is ruled by the court here, that the said defendants answer to the declaration of

the said United States in the plea aforesaid, or judgment will be rendered against them by default.

And the said defendants, by their attorney aforesaid, files in court here the following affidavit, to wit:

In the circuit court of the United States for the district of Maryland.

UNITED STATES
vs.
JOHN WESLEY WATKINS & OTHERS.

On this 5th day of May, A. D. 1863, personally appeared in open court John Wesley Watkins, one of the above-named defendants, & made oath, in due form of law, that he is equitably entitled to the sum of $5,177 34, or thereabouts, as a credit in his favor, for so much money expended by him for the use and benefit of the United States, by the consent & direction of the Honorable Jacob Thompson, then Secretary of the Interior of the United States, which said sum of money, before the institution of this suit, this deponent submitted to the consideration of the accounting officers of the treasury, & by them has not been allowed; that in order to specify more particularly the credit claim as aforemen-
13 tioned, according to the act of Congress in such case made and provided, this deponent explained the same as follows:

That as marshal of the United States for the district of Maryland, he was charged with the duty of taking the census of 1860 for the State of Maryland.

That a certain sum is allowed by the laws of the United States as compensation to the marshal of a district for his trouble & responsibility in executing his part of the duties in taking the census; and that a certain other sum is allowed to the deputy marshals for the discharge of the duties devolving upon them.

The labors of the deputy marshals consist—

First. Of obtaining, by visiting from house to house, through their respective sub-districts, the information from which their returns are compiled;

And second. The returns themselves made up from the information obtained as aforesaid. Two copies of the returns are required to be made; one whereof is required to be transmitted to Washington to be preserved there among the archives of the government; & the other required to be transmitted to the State department of the State.

That in order to harmonize the returns from the various counties, & to obtain the greatest possible accuracy, this deponent suggested to the then Secretary of the Interior that an arrangment should be made with the respective deputy marshals, whereby the second class of duties as above stated should be performed under the supervision of the marshal, & with clerks selected for the work; when compensation should be
14 paid out of the fees & emoluments provided for the said deputy marshals.

That the suggestion of this deponent was acceded to by the Secretary of the Interior, & he was accordingly directed & requested to make and carry out said arrangement. That this deponent did make such arrangement with the several deputy marshals, &, in pursuance thereof, employed a number of clerks, who, from the rough returns of the several deputies, made up & tabulated the two official returns to be sent respectively to the Census Office, & the State department of the State of Maryland.

That, from time to time, this deponent paid the said clerks sums of

money, amounting in the whole to or about $7,309 78, of which sum this deponent has been only reimbursed the sum of about $2,132 44, leaving a balance due to him from the United States on said account of $5,177 34.

That this deponent cannot safely proceed to trial at this time, because of the want of material, competent, & proper evidence to prove the said facts, & which evidence he hopes to be able to procure before the November term, 1863, of this court.

Sworn to in open court this 5 May, 1863.

THO. SPICER, *Clk Cir. Ct.*

Which being read and heard, further process of and upon the premises aforesaid, between the parties aforesaid, by order of the court here thereon, is continued until the first Monday of November next.

15 At which said first Monday in November, to wit, in the year last aforesaid, come again into the circuit court here, as well the said United States, by their attorney aforesaid, as the said John W. Watkins and Hannibal H. Chase, by their attorney aforesaid.

And thereupon the said defendants, by their attorney aforesaid, file in court here the following demurrer, to wit:

In the circuit court of the United States for the fourth circuit in & for the Maryland district.

JOHN W. WATKINS, HANNIBAL H. CHASE, & SOLOMON H. PHILLIPS, *ats.* UNITED STATES OF AMERICA.

And the said defendants, by W. M. Addison, their attorney, come and defend the wrong & injury, &c.; and say that the said declaration, and the matters therein contained, in manner & form as the same are above stated & set forth, are not sufficient in law for the said United States to have & maintain their aforesaid action thereof against the said defendants, and that the said defendants are not bound by the law of the land to answer the same; and this they are ready to verify; wherefore, for want of a sufficient declaration in this behalf, the said defendants pray judgment, & that the said United States may be barred from having & maintaining their aforesaid action thereof against them.

And the said defendants, according to the form of the statute in such case made and provided, state and show to the court here, the following causes of demurrer to the said declaration, that is to say:

16 1. The defendant J. W. Watkins is charged with not making, as marshal of the United States, "true returns of all the public moneys belonging to the said United States by him had and received, or which came to his hands in & during the said term of office," without stating what moneys he did receive, from whom and when he received them, & which of them & what amount he failed to return or pay over.

2. The said defendant J. W. Watkins is charged with not having, as marshal, "rendered his accounts quarter-yearly to the proper accounting officers of the treasury, with the vouchers necessary to a correct and prompt settlement thereof, within three months after the expiration of each successive quarter," without stating which of his quarterly accounts were behindhand, what vouchers he failed to produce, & who was the proper accounting officer to whom the same should have been rendered.

3. The defendant J. W. Watkins is charged with not having, as

marshal, paid "into the treasury of the United States all the sums & balances of the public moneys reported to be due to the said United States, upon the adjustment of his accounts," in the treasury, without stating that said sums and balances were in fact due, or what officer adjusted the balances, or what officer reported the amounts to be due.

4. The defendant J. W. Watkins, it is charged, as marshal as aforesaid, did not pay into the treasury all the surplus of the fees & emoluments of his office over and above the allowances authorized to be retained by him, without stating what were the fees & emoluments he
17 actually received, or the amount he was authorized to retain by law.

And also that the said declaration is in other respects uncertain, informal, & insufficient.

WM. MEADE ADDISON,
Attorney for Defendants.

Whereupon, all and singular the premises being seen, heard, and, by the court here, fully understood, and mature deliberation being thereupon had, the demurrer is overruled as to the first three breaches, and sustained as to the fourth breach.

Whereupon the said defendants, by their attorney aforesaid, filed in the said circuit court here a demand for particulars of plaintiff's claim; which is in the words following, to wit:

In the circuit court of the United States for the fourth circuit in and for the Maryland district.—November term, 1863.

THE UNITED STATES
vs.
JOHN WESLEY WATKINS, HANNIBAL H. CHASE, & Cyrus Gault.

The defendants in this cause come here into court & demand that the plaintiff do deliver to the defendants' attorney, or file in this cause the particulars of the claim for which this suit was brought; showing specifically the sums of money demanded of them, and on what accounts, with all the items thereof.

WM. MEADE ADDISON,
Attorney for Defendants.

18 "Endorsed:" Service of copy acknowledged this 11th February, 1864.

WM. PRICE, *U. S. Att'y.*

And thereupon the said United States, by their attorney aforesaid, filed in court here a bill of particulars of the plaintiff's claim, in the words following, to wit:

District court U. States, Maryland district.

THE UNITED STATES
vs.
JOHN W. WATKINS & OTHERS.

It is agreed that the bill of particulars filed in this case shall not be inserted in the record, but that the original shall be used in the trial thereof before the appellate court.

WM. PRICE, *for the Plaintiffs.*
W. M. ADDISON, *for Def'ts.*

Thereupon further process of, and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first Monday of April next.

At which said first Monday of April, to wit, in the year of our Lord one thousand eight hundred and sixty-four, come again into the circuit court here as well the said United States, by their attorney aforesaid, as the said John W. Watkins and Hannibal H. Chase, by their attorney aforesaid; and the said John W. Watkins and Hannibal H. Chase, by their attorney aforesaid, filed in court here the following plea, to wit:

19 MARYLAND DISTRICT, *sc:*

In the circuit court of the United States for the fourth circuit.

JOHN WESLEY WATKINS & OTHERS
ats.
UNITED STATES.

And the said defendants, by Wm. Meade Addison, their attorney, come and defend the wrong & injury, when, &c., and pray an hearing of the writing obligatory aforesaid, & the condition thereof, and they are read to them in the words of the copy thereof filed in this cause; which being read and heard, the said defendants say that the said plaintiff the action aforesaid thereof against them ought not to have & maintain, because, they say, that the said defendant John Wesley Watkins, one of the obligors in the said writing obligatory mentioned, from the time of making said writing obligatory hitherto hath well & faithfully observed, performed, fulfilled, & kept all & singular the matters & things in the condition of the said writing obligatory mentioned & contained, which he, according to the condition thereof, ought to have observed & fulfilled, performed & kept, to wit, at the district aforesaid.

And this they are ready to verify, &c.

WM. MEADE ADDISON, *Def'ts Att'y.*

And the said United States, by their attorney aforesaid, filed
20 in the said circuit court here the following replication, to wit:

THE UNITED STATES
vs.
JOHN W. WATKINS & OTHERS.

And the said plaintiffs say, that by reason of anything in the said plea alleged, they ought not to be barred from having and maintaining their aforesaid action against them, the said defendant, because, they say, that the said John W. Watkins did not fulfil, perform, and keep all and singular the matters & things in the condition of the said writing obligatory mentioned & contained to be by him observed, performed, fulfilled, and kept, but wholly failed & neglected so to do, in manner and form as the plaintiffs have thereof above complained against him; and of this the said plaintiffs put themselves upon the country.

WM. PRICE,
Dist. Att'y U. States.

And the said defendants in like manner.

And the said defendants, by their said attorney, file in court here the following affidavit, to wit:

In the circuit court of the United States for the district of Maryland.

UNITED STATES OF AMERICA
vs.
JOHN WESLEY WATKINS & OTHERS.

21 On this 18th day of May, 1864, personally appeared in open court, John Wesley Watkins, one of the above-named defendants, & made oath, in due form of law, that the Honorable Jacob Thompson, late Secretary of the Interior, is a material, competent, & proper witness for him, and that he cannot safely proceed to trial without the evidence of the said Jacob Thompson.

That he expects to be able to prove by the said Jacob Thompson, that he, the said Jacob Thompson, as Secretary of the Interior as aforesaid, authorized & empowered him, this deponent, to use & expend the sum of four thousand dollars, or any larger sum that might be necessary, in taking & perfecting the late census for the district of Maryland; that this claim against the government of the United States arose thus: A certain amount of money is allowed by law for the taking of the census; one portion of which is paid to the marshal for his compensation, & the residue to the deputy marshals for their compensation. The work of the deputy marshals consists first, of the acquisition, by visiting, from house to house, of the data from which their returns are made to the United States; and, second, the returns themselves, made up from the said acquired data. Two copies of the returns are required to be made by law; one to be sent to Washington, for preservation in the archives there; the other copy is sent to the State department of the State. In order to harmonize the returns from the various counties, & in order to attain the greatest possible accuracy, this deponent

22 suggested that the compensation to be paid to those other than himself should be so divided that two classes of persons should receive it, to wit, those who gathered the information, & those who tabulated it. The Secretary of the Interior, the said Jacob Thompson, approved of this suggestion, and authorized and directed this deponent to make the necessary arrangements to do the work in the mode proposed; and, in compliance with said instructions & authority, this deponent did employ a class of persons to tabulate & copy the material gathered by the deputy marshals; and did contract that they should receive a certain portion of the fees provided by law for the payment of those engaged in taking the census, other than that coming to himself; into which contract the deputy marshals aforesaid entered, & with which arrangement they heartily concurred; that, in pursuance of such instructions & contract & concurrence, this deponent, from time to time, did pay the said clerks so as aforesaid engaged in tabulating the work, sums of money amounting in the whole to a very large sum of money, to wit, $4,375 50, or thereabouts, which this deponent claims as a set-off to any claim the United States may have against him, and which he has presented as a set-off and in bar of any claim the United States may have against them; which claim has been disallowed; that this deponent believes the testimony of the said Jacob Thompson can be obtained through a commission; and from the military operations now in prog-

23 ress, the government, it is believed, is of the opinion that the authority of the laws of the United States will be established in regions of the country where your affiant believes the said Jacob Thompson now is; when, if such should be the case, the usual process can reach him.

Sworn to in open court this 18th day of May, 1864.

JAS. W. CHEW,
Clk & U. S. Comm'n'r ex off.

[U. S. 5-cent stamp.]

Which being read and heard, further process of and upon the premises aforesaid, between the parties aforesaid, by order of the court here thereon, is further continued until the first Monday in November next.

At which said first Monday of November, to wit, in the year last aforesaid, come again into the circuit court here, as well the said United States, by their attorneys aforesaid, as the said John W. Watkins and Hannibal H. Chase, by Robert J. Brent and William Meade Addison, their attorneys.

And thereupon the following agreement was filed in court here, in the words following, to wit:

Circuit court of the United States for the Maryland district.

THE UNITED STATES
vs.
JOHN W. WATKINS & AL.

SAME
vs.
SAME

SAME
vs.
SAME.

24 It is agreed that the above-entitled causes, transferred from the district court into this court, should be reinstated in the district court, whence they were removed, & stand for trial at December term, 1864.

N. J. THAYER,
Assist. U. S. Dist. Att'y.
WM. MEADE ADDISON,
Att'y for Def'ts.

BALTO., *Nov.* 14, '64.

And now here at this day, to wit, the first Tuesday of December, in the year last aforesaid, come into the district court here, as well the said United States of America, by their attorney aforesaid, as the said John W. Watkins and Hannibal H. Chase, by their attorneys aforesaid.

Wherefore, for trying the issue aforesaid, it is ordered by the court here that twenty persons from the pannel of petit jurors, returned to the court here by the marshal for the Maryland district aforesaid, be drawn by ballot. And thereupon the twenty persons being drawn by ballot and written upon two lists, one of which said lists is delivered to the counsel of the respective parties, and the counsel for each of the said parties having stricken out four persons from the said list, thereupon the remaining twelve persons, being called, come to wit: John R. Holliday, Daniel L. Lazenby, Joseph B. Escaville, Nicholas Merryman,
James B. Ford, George W. Gordshell, George Roach, James Al-
25 gies, David Moore, Charles B. Purnell, William Barnes, and

Henry Powles, who, being empannelled and sworn to say the truth in the premises, upon their oath do say that they find their verdict for the United States for the sum of two thousand two hundred and eleven dollars and thirty-one cents.

Therefore it is considered by the court here, that the said United States recover against the said John W. Watkins and Hannibal H. Chase, as well the sum of twenty thousand dollars, lawful money, their debt aforesaid, to be released on the payment of the sum of two thousand two hundred and eleven dollars and thirty-one cents (by the jurors aforesaid in form aforesaid assessed), with interest thereon from the twenty-fourth day of January, in the year of our Lord eighteen hundred and sixty-five, according to the form of the statute in such case made and provided, as also the sum of by the court here, unto the said United States, on their assent adjudged for their damages which they have sustained, as well by occasion of the detention of that debt as for their costs and charges by them about their suit in this behalf laid out and expended. And the said John W. Watkins and Hannibal H. Chase in mercy, &c.

MEMORANDUM.—Before the jurors aforesaid withdrew from the bar of the court here, the said John W. Watkins and Hannibal
26 H. Chase tendered to the court here the following bills of exceptions, which are signed and sealed by the court, and are in form following, to wit:

Defendants 1st bill of exceptions.

No. 27.—Trials Dec. T., 1864.

UNITED STATES *vs.* JOHN W. WATKINS *et al.* } Action on bond dated 7th April, 1857.

At the trial of this case, the plaintiffs having read in evidence the treasury transcript showing the adjustment of the accounts of John W. Watkins, as marshal, under his bond dated 7th April, 1857, made a part hereof.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
November 14, 1862.

Pursuant to the act of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, L. E. Chittenden, Register of the Treasury Department, do hereby certify that the annexed copies of the reports of the First Auditor of the Treasury, numbers 6,912, 7,856, 8,408, 9,301, 10,087, 11,015, 11,671, 12,390, 12,999, 14,839, 15,130,
27 15,587, & 15,643, as admitted and certified by the Comptroller upon the accounts of John W. Watkins, late U. S. marshal for the district of Maryland, under his bond dated April 7, 1857, and the copies of statements numbered 6,912, 7,856, 8,408, 9,301, 15,130, 15,587, & 15,643, with the statement of differences thereon, are a transcript from the books and proceedings of the treasury; and the copies of the accounts current of said marshal, and the warrants and drafts annexed, are true copies of the originals on file in this office.

L. E. CHITTENDEN, *Register.*

Be it remembered that L. E. Chittenden, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

{ SEAL'S PLACE. } In witness whereof, I, S. P. Chase, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department at the city of Washington, this fourth day of November, in the year of our Lord 1862.

S. P. CHASE,
Secretary of the Treasury.

28 No. 6,912.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
June 16th, 1857.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find find that he is chargeable, viz:

To warrant on the Treasurer, No. 4,059, dated 18th April, 1857		$5,250 00
Dollars		5,250 00

I also find that he is entitled to credit—

By am't of his own compensation for attendance, travel, summoning jurors, & costs, at the April term, 1857, of the circuit court, as per abstract herewith		285 33
" disbursements for said courts:		
For witnesses' attendance and travel	$151 50	
" jurors' " " "	1,572 60	
" contingencies	1,134 72	
		2,858 82
" comm's on $2,858\frac{82}{100}$, @ 2 per cent		57 17
Leaving a balance due the United States of		2,048 68
Dollars		5,250 00

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

$2,048 68. T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

29 COMPTROLLER'S OFFICE.

I admit and certify the above balance this twenty-first day of August, A. D. 1857.

W. MEDELL, *Comptroller.*

To the REGISTER *of the Treasury.*

30, 31 *John W. Watkins, marshal for the district of Maryland, in account with the United States (under bond of 7th March, 1857).*

DR.		CR.	
To warrant on the Treasurer, No. 4,059, dated 18th April, 1857..	5,250 00	By am't of his own compensation for attendance, travel, summoning jurors & costs, at the April term, 1857, of the circuit court, as per abstract herewith.....	285 33
		" disbursements of said courts, viz: For witnesses' attendance and travel..... $151 50	
		" jurors' " 1,572 60	
		" contingencies.. 1,134 72	
		—	2,858 82
		" commissions on $2,858\frac{82}{100}$, a 2 per cent....	57 17
		" balance due the United States	2,048 68
Dollars	5,250 00	Dollars	5,250 00

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE, *June* 16, 1857.

THAD. STURGIS.

COMPTROLLER'S OFFICE, *August* 21, 1857.

J. M. CONNELL.

32 No. 7,856.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE, *December* 12, 1857.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 6,912.....		$2,048 68
Warrants on the Treasurer:		
No. 4,392, dated 17 June, 1857.....		3,800 00
" 4,612, " 22 July "		1,225 00
Dollars		7,073 68

I also certify that he his entitled to credit—

By am't of his own compensation for attendance, travel, summoning jurors, & costs for June & Sept. terms, 1857, of the district court, as per abstract herewith.....		604 14
Disbursements for said court:		
For travel and attendance of witnesses.....	$640 00	
" " " jurors.....	1,734 00	
" expenses of prisoners.....	439 35	
" contingencies.....	748 63	
		3,561 98
" commissions on $3,561\frac{98}{100}$, @.....		71 24
Leaving a balance due the United States of.....		2,836 32
Dollars		7,073 68

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

33 COMPTROLLER'S OFFICE.

Bal. due U. S., per auditor's rep., bro't down.....	$2,836 32
To which add, as per amended state't No. 7,856.....	357 63
Corrected bal. due U. S.....	$3,193 95

I admit and certify the above corrected balance this seventh day of January, 1858.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

34, 35 *John W. Watkins, marshal for the district of Maryland, in account with the United States.*

DR.		CR.	
To balance due from him, per report No. 6,912.....	$2,048 68	By am't of his own compensation for attendance, travel, summoning jurors, & costs for June and September terms of the district court, as per abstract herewith	556 19
Warrants on the treasury:		Disbursements for said courts:	
No. 4,392, dated 17 June, 1857	3,800 00	For witnesses' attendance & travel 640 00	
" 4,612, " 23 July, "	1,225 00	" jurors " " " 1,734 00	
		" expenses of prisoners 151 25	
		" contingencies .. 733 13	
			3,258 38
		" comm's on $3,258 38, at 2 per cent.	65 16
		" balance due the United States	3,193 95
Dollars	7,073 68	Dollars	7,073 68

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Dec'r 12, 1857.

THAD. STURGIS.

COMPTROLLER'S OFFICE, *Jan'y* 7, 1858.

J. M. CONNELL.

36 No. 8,408.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
April 10, 1858.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 7,856	$3,193 95
" warrant on the treasury, No. 5,473, dated 11 Dec'r, 1857..	6,864 26
Dollars	10,058 21

I also find that he is entitled to credit—

By am't of his own compensation for attendance, travel, summoning jurors, & costs for the Nov. term, 1857, of the circuit court & Dec. term, 1857, of the district court, as per abstract herewith	$783 91

" disbursements for said courts:		
For witnesses' attendance & travel	$414 00	
" jurors' " " "	1,819 50	
" expenses of prisoners	25 50	
" contingencies	950 96	
		3,209 96
" comm's on $3,209 $\frac{96}{100}$, @ 2 per cent.		64 19
Leaving a balance due the United States of		6,000 15
		Dollars 10,058 21

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury.

T. L. SMITH,
First Auditor.

To the FIRST COMPTROLLER *of the Treasury.*

37 COMPTROLLER'S OFFICE.

Auditor's bal. due U. S. bro't down	$6,000 15
From which deduct, as per amended statement	8 00
	$5,992 15
To which add, as per do	2 03
	$5,994 18

I admit and certify the above amended balance of $5,994 18 this seventh day of May, 1858.

W. MEDILL. *Comptroller.*

To the REGISTER *of the Treasury.*

38, 39 *John W. Watkins, marshal for the district of Maryland, in account with the United States.*

DR.		CR.	
To balance due from him, per report No. 7.856	3,193 95	By am't of his own compensation for attendance, travel, summoning jurors, & costs for the Nov. term, 1857, of the circuit court, & December term, 1857, of the district court, as per abstract herewith	791 91
" warrants on the treasurer, No. 5,473, dated 11 December, 1857	6,864 26	" disbursements of said court:	
		For witnesses' attendance and travel $414 00	
		" jurors' " " " 1,817 50	
		" expenses of prisoners 25 50	
		" contingencies 950 96	3,207 96
		" commissions on $3,209 $\frac{96}{100}$, a 2 pr. cent.	64 16
		" balance due the United States	5,994 18
	Dollars 10,058 21		Dollars 10,058 21

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
April 10, 1858.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
May 7th, 1858.

R. L. BROWN.

40 No. 9,301.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Oct. 2d, 1858.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 8,408	$5,994 18
Warrants on the Treasurer, No. 6,300, dated 2d April, 1858	5,232 00
Dollars	11,226 18

I also find that he is entitled to credit—

By am't of his own compensation for attendance, travel, & costs for the March & June terms, 1858, of the district courts, and the April term, 1858, of the circuit court		1,402 60
" disbursements for said courts:		
For witnesses' attendance & travel	$694 50	
" jurors' " " "	3,605 20	
" expenses of prisoners	191 06	
" contingencies	1,193 63	
		5,684 39
" comm's on $5,684 39, @ 2 per cent.		113 68
Leaving a balance due the United States of		4,025 51
Dollars		11,226 18

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

41 COMPTROLLER'S OFFICE.

Bal. due to the U. S. per within report	$4,025 51
Add as per amended statement	31 02
Leaving corrected balance due to U. States	$4,056 53

I admit and certify the above corrected balance this twentieth day of November, 1858.

JOHN OTT, *Acting Comptroller*

To the REGISTER *of the Treasury.*

42, 43 *John W. Watkins, marshal for the district of Maryland, in account with the United States.*

Dr.		Cr.	
To balance due from him, per report No. 8,408	5,994 18	By am't of his compensation for attendance, travel, & costs for the March & June terms, 1858, & the April term, 1858, of the circuit court, as per abstract herewith	1,372 60
Warrant on the treasurer, No. 6,300, dated 2d April, 1858	5,232 00	" disbursement for said courts: For witnesses' attendance & travel.. $695 00	
		" jurors' " " " 3,605 20	
		" expenses of prisoners 189 56	
		" contingencies 1,193 63	
			5,683 39
		" commissions on $5,683 39, *a* 2 per cent	113 66
		" balance due the United States..	4,056 53
Dollars	11,226 10	Dollars	11,226 18

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Oct. 1st, 1858.

THAD. STURGIS.

COMPTROLLER'S OFFICE, *November* 20, 1858.

JAMES AULD.

44 No. 10,087.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Feb. 14, 1859.

I hereby certify that I have examined and adjusted an account between the United States & John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 9,301	4,056 53
Warrants on the treasury:	
No. 7,742, dated Sept. 30, 1858	10,017 29
No. 7,743, " " " "	3,678 71
No. 8,393, " Dec'r " "	8,239 84
Dollars	25,992 37

I also find that he is entitled to credit—

By am't of his compensation for attendance, travel, & costs for September term, 1858, & Nov. term, 1858, of the district courts		926 96
" disbursements for said courts:		
For witnesses' attendance & travel	$1,097 30	
" jurors' " "	4,890 60	
" expenses of prisoners	362 62	
" contingencies	1,147 06	
		7,497 58
" commissions on $7,497 58, @ 2 per cent		149 95
Leaving a balance due the United States of		17,417 88
Dollars		25,992 37

As appears from the statement and vouchers herewith transmitted for the decision of the Comproller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

45 COMPTROLLER'S OFFICE.

Balance due to the United States as per within report	$17,417 88
Deduct as per amended statement No. 10,087	96 19
Leaving corrected balance due to the U. States	17,321 69

I admit and certify that the above corrected balance this twenty-first day of March, 1859.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

46 No. 11,015.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE.
July 29, 1859.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 10,087		$17,321 69
Warrant on the treasurer, No. 189, dated 14 July, 1859		5,100 00
	Dollars	22,421 69

I also find that he is entitled to credit—

By am't of his compensation for attendance, travel, & costs for the Dec. term, 1858, & the March & April terms, 1859, of the United States courts		750 98
Disbursements for said courts:		
For witnesses' attendance & travel	$375 50	
" jurors' " " "	3,443 90	
" expenses of prisoners	694 12	
" contingencies	1,139 04	
		5,652 56
" comm's on $5,652 56, @ 2 per cent		113 04
Leaving a balance due the United States		15,895 11
	Dollars	22,421 69

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

47 COMPTROLLER'S OFFICE.

Bal. due to U. S. per above report	$15,895 11
Add as per amended statement	48 79
Corrected bal. due U. S.	15,943 90

I admit and certify the above corrected balance this thirtieth day of August, 1859.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

48 TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Dec'r 24, 1859.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 11,015.....	15,943 90
Warrant on the Treasurer, No. 1,216, dated 17 Nov., 1859.	6,269 00
Dollars	22,212 90

I also find that he is entitled to credit—

By am't of his compensation for attendance, travel, & costs for the June & Sept'r terms, 1859, of the U. S. courts...		915 38
" disbursements for said courts—		
For witnesses' attendance & travel.....	$624 10	
" jurors' " " "	2,114 00	
" expenses of prisoners.....	871 96	
" contingencies.....	660 73	
		4,270 79
" commissions on $4,270 79, @ 2 per cent.....		85 41
Leaving a balance due the United States of.....		16,941 32
Dollars		22,212 90

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury*

49 COMPTROLLER'S OFFICE.

Balance due U. States bro't down.....	$16,941 32
Deduct as per amended statement.....	1,531 85
Corrected balance due U. S.....	$15,409 47

I admit and certify the above corrected balance this tenth day of January, 1860.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

50 No. 12,390.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
June 19th, 1860.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him, per report No. 11,671	$15,409 47
Warrant on the Treasurer, No. 2,385, dated 16 April, 1860.	7,545 70
Dollars	22,955 17

I also find that he is entitled to credit—

By am't of his compensation for attendance, travel, & costs for the Nov. & Dec. terms, 1859, 1860, of the U. States courts		709 06
Disbursements for said courts:		
For witnesses' attendance & travel	$251 00	
" jurors' " " "	3,100 00	
" expenses of prisoners	413 12	
" contingencies	1,774 07	
		5,538 29
" commissions on $5,538 29, @ 2 per cent		110 76
Leaving a balance due the United States of		16,597 06
Dollars		22,955 17

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

51 COMPTROLLER'S OFFICE.

Bal. due U. States brought down	$16,597 06
Deduct as per amended statement	121 25
Corrected balance due U. S	16,475 81

I admit and certify the above-corrected balance this second day of July, 1860.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

52 No. 12,999.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Nov. 28, 1860.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him per report No. 12,390	16,475 81
Warrant on the Treasurer, No. 4,145, dated 16 Nov., 1860.	7,662 00
Dollars	24,137 81

I also find that he is entitled to credit—

By am't of his compensation for attendance, travel, & costs for the March, April, & June terms, 1860, of the United States courts	768 29

Disbursements for said courts:

For witnesses' attendance & travel	$1,057 00	
" jurors' " "	3,559 70	
" expenses of prisoners	1,110 07	
" contingencies	998 50	
		6,725 27
" commissions on $6,725 27, @ 2 per cent		134 50
Leaving a balance due the United States of		16,509 75
Dollars		24,137 81

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

53 COMPTROLLER'S OFFICE.

To balance due U. S. per above report	$16,509 75
Add as per amended statement	11 00
Corrected balance due U. S	$16,520 75

I admit and certify the above corrected balance this twenty-ninth day of December, 1860.

$16,520 $\frac{75}{100}$.

W. MEDILL, *Comptroller.*

To the REGISTER *of the Treasury.*

54 No. 14,839.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Feb'y 4, 1862.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, marshal for the district of Maryland, and find that he is chargeable—

To balance due from him per report No. 12,999	$16,520 75
Dollars	16,520 75

I also find that he is entitled to credit—

By am't of warrant in favor of the Treasurer, No. 184, dated 21 December, 1861	$1,286 29
Leaving a balance due the United States of	15,234 39
Dollars	16,520 75

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

COMPTROLLER'S OFFICE.

I admit and certify the above balance this twelfth day of February, 1862.

E. WHITTLESEY, *Comptroller.*

To the REGISTER *of the Treasury.*

55 No. 15,130.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
April 25, 1862.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, late marshal for the district of Maryland, under a bond dated 7th April, 1857, and find that he is chargeable—

To balance due from him per report No. 14,839		$15,234 39
" am'ts improperly credited in his accounts under bond dated 7 April, 1857, & which are now to be credited in his accounts under bond dated 28 June, 1858, viz:		
Per report No. 10,087	$8,670 68	
" " " 11,115	6,477 79	
" " " 11,671	6,803 43	
" " " 12,390	6,479 36	
" " " 12,999	7,617 06	
" " " 14,839	1,286 36	
		37,334 68
Dollars		52,569 07

I also find that he is entitled to credit—

By am't of warrants on the treasury improperly charged to him in accounts under bond dated 7th April, 1857, and which are to be charged to him in accounts under bond dated 28 June, 1858, viz:		
No. 7,742, dated 30 Sept., 1858	$10,017 29	
" 7,743, " " " "	3,678 71	
" 8,393, " 30 Dec'r, "	8,239 84	
56 " 189, " 14 July, 1859	5,100 00	
" 1,216, " 17 Nov., "	6,269 00	
" 2,385, " 16 April, "	7,545 70	
" 4,145, " 16 Nov., "	7,662 00	
		48,512 54
Leaving a balance due the United States of		4,056 53
Dollars		52,569 07

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

COMPTROLLER'S OFFICE.

I admit and certify the above balance this twenty-fifth day of April, 1862.

E. WHITTLESEY, *Comptroller.*

To the REGISTER *of the Treasury.*

57

58, 59 *John W. Watkins, late marshal for the district of Maryland, in account with the United States under bond dated 7th April, 1857.*

DR.		CR.	
To balance due the United States per report No. 14,839.....	15,234 39	By warrants on the Treasurer improperly charged to him under bond dated 7 April, 1857, which are now to be charged to him in accounts under bond dated 28 June, 1858, viz:	
" amounts improperly credited under bond dated 7th April, 1857, which are now to be credited in his accounts under bond dated June 28, 1858, viz:		No. 7,742 dated 30 Sept., 1858,	$10,017 29
Per report No. 10,087 $8,670 68		" 7,743 " " " "	3,678 71
" " " 11,115 6,477 79		" 8,393 " " Dec'r "	8,239 84
" " " 11,671 6,803 43		" 189 " 14 July, 1859	5,100 00
" " " 12,390 6,479 36		" 1,216 " 17 Nov., "	6,269 00
" " " 12,999 7,617 06		" 2,385 " 16 April, 1860,	7,545 70
" " " 14,839 1,286 36		" 4,145 " 16 Nov., "	7,602 00
	37,334 68		48,512 54
		" balance due the United States	4,056 53
Dollars	52,569 07	Dollars	52,569 07

FIRST AUDITOR'S OFFICE, *April* 25, 1862.

THAD. STURGIS.

COMPTROLLER'S OFFICE, *April* 25, 1862.

JAMES AULD.

60 No. 15,587.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Aug. 22, 1862.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, late U. S. marshal for the district of Maryland, under bond dated 7th April, 1857, and find that he is chargeable, viz:

To balance due from him per report No. 15,130.....	$4,056 53
Dollars	4,056 53

I also find that he is entitled to credit—

By amount of suspensions per reports No. 7,856, 8,408, & 9,301, per abstracts herewith.....	1,555 13
" commissions on $1,555 13, @ 2 per cent.....	31 10
And that the balance due the United States amounts to....	2,470 30
Dollars	4,056 53

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

$2,470 30 T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

COMPTROLLER'S OFFICE.

61 I admit and certify the above balance of two thousand four hundred and seventy dollars and thirty cents this 23d day of August, 1862.

E. WHITTLESEY, *Comptroller.*

To the REGISTER *of the Treasury.*

62, 63 *John W. Watkins, late U. S. marshal district of Maryland, in account with the United States under bond dated 7 April, 1857.*

DR.		CR.	
To balance due from him per report No. 15,130	$4,056 53	By am't of suspensions per reports Nos. 7,856, 8,408, and 9,301, now allowed per abstract herewith	1,555 13
		" commissions on $1,555 13, at 2 per cent	31 10
		" balance due the United States	2,470 30
Dollars	4,056 53	Dollars	4,056 53

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Aug. 21, 1862.

Examined and stated.

By L. B. L. MILLER.

COMPTROLLER'S OFFICE, *Aug.* 23*d*, 1862

GEORGE CHIPMAN.

64 No. 15,643.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
Sept. 13, 1862.

I hereby certify that I have examined and adjusted an account between the United States and John W. Watkins, late U. S. marshal for the district of Maryland, under bond dated 7th April, 1857, and find that he is chargeable, viz:

To balance due from him per report No. 15,587		$2,470 30
" commissions heretofore allowed now charged him as forfeited under 1st sec., act 3d March, 1797, viz:		
Per report No. 6,912	57 17	
" " " 7,856	65 16	
" " " 8,408	64 16	
" " " 9,301	113 66	
		300 00
Dollars		2,770 45
And that the balance due the United States amounts to		2,770 45
Dollars		2,770 45

As appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury.

$2,770\frac{45}{100}$. T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER *of the Treasury.*

65 COMPTROLLER'S OFFICE.

I admit and certify the above balance, two thousand seven hundred seventy $\frac{45}{100}$ dollars, due to the U. S. this 27 October, 1862.

E. WHITTLESEY, *Comptroller.*

To the REGISTER *of the Treasury.*

66, 67 *John W. Watkins, late U. S. marshal district of Maryland, in account with the United States, under bond 7th April, 1857.*

DR.		CR.	
To balance due from him—		Balance due the United States..	$2,770 45
per report No. 15,587.....	$2,470 30		
" commissions heretofore allowed, now charged to him, as forfeited under 1st section, act 3d March, 1797, viz:			
Per report 6,912....	$57 17		
" " 7,856....	65 16		
" " 8,408....	64 16		
" " 9,301....	113 66		
	300 15		
Dollars	2,770 45	Dollars	2,770 45

FIRST AUDITOR'S OFFICE, *Sept.* 13, 1862.

L. B. L. MILLER.

COMPTROLLER'S OFFICE, 27 *October*, 1862.

B. A. BARNES.

68 STATEMENT OF DIFFERENCES.

Account of John W. Watkins, late United States marshal for the district of Maryland, under bond dated 7th April, 1857.

Balance due the United States per Treasury statement.....	$2,770 45
" " " per marshal's last $^{a}/_{c}$ current.	2,754 70
Difference	15 78

Which difference arises as follows:

DEBIT DIFFERENCES.

April term, 1857, *circuit court; rep. No.* 6,912.

Item 1, ab. 1.	Pay't to Henry Beamer, grand juror for 4 days, susp'd; because the days are not in the order of court	8 00
2, ab. 3.	Pay't to Jos. H. Amey, witness 1 day, allow. susp'd; name not in order of court.....	1 50
3, " "	Error in add. in abstract of payments to witnesses before commissioner	2 00
4, ab. 6, vou. 9.	Carpet for grand-jury room, suspended, for want of approval of Secretary of Interior.	28 80
5,	Com's charg'd more than allowed.....	82

June term, 1857, *dis. court; rep. No.* 7,856.

Item 1.	Warrant No. 4,612, dated 22d July, 1857, not credited by marshal in acc't current.....	1,225 00
2.	Error in add. of ab. 3, pay't to witnesses....	1 00
3, ab. 4.	Charge of expenses of self & Dep't. Small to	
69	Washington, to arrest Wainwright, disall'd; having charged mileage, it is all that can be allowed.....	18 00

"	5, ab. 6, vo. 11.	W. M. Allen's bill for board of juries in cases vs. McAllister & Sparklin, susp'd for want of order of court showing necessity for this expense	46 50
"	6, " "	vo. 12. Nicholas Carr's bill for hack-hire for carrying prisoners to and from jail, susp'd. If this is a charge of expenses in lieu of mileage, it should be made in ab. 4 and proven, on oath, to the satisfaction of the court	55 00
"	7.	Com's charged more than allowed	2 05
		Carried forward	1,388 67
		Am't bro't forw'd	1,388 67

Sept. term, 1857, *dis. court.*

Item	8, ab. 4.	Double charge of per diem for attendance of self and Deputy Vance before com'r on 22 Sept., '57	4 00
"	10, ab. 6, vou. 10.	Pay't to Klinefelter for feeding juries in cases vs. Davis & Spratten, & $1 68¾ for dinners for witnesses—first susp'd, as in item 5; the latter disallowed	19 87
	11.	Commissions charged more than allowed	40
	12, ab. 4.	Mileage charged for serving sub. on Maguire for U. S. court of So. Carolina, from Baltimore to Charleston, 688 miles, susp'd, because judge refuses to certify its correctness. Act 16 Aug., 1856, 1st sec., requires such certificate	41 28
	14, ab. 5.	Overcharge in physician's bill; 14 visits to Andrews, at 75 cts., makes $10 50, instead of $10 75	25

June term.

70	15, ab. 4.	Bill of expenses of Small, serving Benett & others, susp'd, because not verified by oath & not dated	6 67
	18, ab. 6.	Stationary bill of Murphy & Co.—1 copying press, $7 50, & 3 knives, $5 50—susp'd until shewn that the articles were ordered by the court; also copy of Maryland Laws, $2 50, disallowed—marshal must furnish his own law-books	15 50
		Com's charged more than allowed	33

November term, 1857, *cir. c't; rep. No.* 8,408.

Item	1, ab. 1.	Am't paid Thomas, grand juror, not receipted, susp'd	8 00
	2, ab. 3.	Pay'ts to witnesses—Henly, $7 50; Madden, $20 50; Edwards, $20 50; Fallen, $16 50—all susp'd; no witness to their mark (×)	65 00

	3, ab. 4. Summoning juries, $108 45 ch'd; only $50 can be allowed under act of 26 Feb., 1853; bal. disall'd	58 45
	4, ab. 4. Mileage for summoning juries for cir. court, for Nov. term, '53, to Ap'l term, '57. These charges, with the amount allowed in the adjustment of the acc't for each term, exceeds the maximum of $50 allowed by act 26 Feb., 1853. The excess for each term disallowed, as follows: Ap'l T., '54, $18 24; Nov. T., '54, $34 02; Ap. T., '55, $33 83; Nov. T., '55, $23 40; Ap'l T., '56, $31 80; Nov. T., '56, $24 06; Ap'l T., '57, $30 89	221 80
	Carried forward	1,830 22
	Am't bro't forward	1,830 22
Item	5, ab. 6, vo. 9. Pay't of N. Carr, hack-hire; suspended for same reason given for susp'd like charge per rep't No. 7,856	69 00
	6, ab. 6, vo. 12. Pd. Maxell for cleaning pipes & flues; vo. not receipted	50
	7, ab. 6, vo. 13. Pay't to Alex. Gilmer for attending court-rooms from 1st Nov., '56, to 1st Nov., '57; no witness to mark ×	184 00
71	8. Comm's charged more than allowed	2 50

December term, 1857, *dis. court.*

	9, ab. 4. Serving 2 bench warrants on each, Wilson, Hennyman, Stearns, & Murphy, susp'd for explanation as to the necessity for bench warrants, they being in custody	16 00
	10, ab. 4. Charges for attend. of self and 2 deputies before com'r, 31 Dec. & 7 Jan'y, $12 00; and for mileage for Dep. Boyle to Sharpsburg, to arrest on 7 & 8 Jan'y, 100 miles each trip, 10 cts. per mile, $20; & for Dep. Boyle & Knes going to Wilmington, Md., to arrest, 106 miles each, at 10 per mile, $21 20. All susp'd for explanation	53 20
	11. Error in addition of ab. 4	10 00
	12, ab. 2. A. P. Shut, talesman, petit juror. Am't charg'd, $2; not receipted, susp'd	2 00

March term, 1858, *dis. court; rep. No.* 9,301.

Item	1, ab. 4. Fees in case on postmaster's bond vs. Hall & Janys, disall'd; not payable out of judiciary fund; should be sent to the 6th Auditor for adjustment	9 00
	2, ab. 4. Case vs. Keiver, carriage-hire as actual expenses in lieu of mileage for travel to arrest, &c. Susp'd till proven on oath to the satisfaction of court. (Act. 26 Feb., 1853)	5 00
	3, ab. 4. Case vs. Little, charge for service bench w't. Disallowed as unnecessary, def't being under arrest.	2 00
	6, ab. 6, vo. 10. P. K. Boyle, bill $45 50; & vo. 11. D.	

Lynch, $2; both carriage-hire, actual expenses in lieu of mileage. Susp'd for same reason given in item 2. The charge of $5 in Boyle's bill, for going to Balto. Co. to arrest Recon, disall'd; ch'd in ab. 4 also... 47 50

Carried forward... $2,230 92

Am't bro't forward... $2,230 92

72 Item 7. Comm's charged more than allowed...

April term, 1858, *cir. et.*

8, ab. 1. Overcharge for pay'ts to grand juries, $488; ch'd ab. for only $288... 200 00

10, ab. 2. Pay't to E. M. Punderson 1 day, not receipted 4 00

9, ab. 2. Overpaid I. Blue, petit juror; p'd for $28 days; order is for 26 d'ys only... 4 00

11, " 3. Overp'd Wm. Smith, witness, for 4 days' before court, $6 50 p'd; only $6 all'd... 50

12, " 3. Error in addition; should be $327 50; not $357... 29 50

13, ab. 4. Case vs. Grant & Parrington, service of bench warr't on each; disall'd, def'ts being already under arrest... 4 00

14, ab. 6, vo. 11. Glass & Cox, $3; vo. 12, O'Neal, $3; vo. 13, Wheatley, $2; vo. 14, Lynch, $2; vo. 16, steamboat Star, $10; all for actual expenses in lieu of mileage; suspended as in item 6 above... 20 00

15, ab. 6, vo. 15. Riggs's bill for candlesticks; not receipted... 1 50

17. Comm's charged more than allowed... 2 65

June term, 1858, *dis. court.*

18, ab. 4. Case vs. Maldy et al., service of bail piece on John Holland. Susp'd for explanation as to nature of writ... 2 00

20, ab. 5, vo. 1. James' jail bill, $227 10 charged; 199 80 allowed; bal. disallowed... 27 30

21, ab. 6, vo. 10. Boyle, $69; vo. 12, Connolly, $7; & vo. 13, Wheatley, $2; all for actual expenses in lieu of mileage. Susp'd as in item 6 above... 78 00

22. Com's charged more than allowed... 12

March term, 1858.

23, ab. 4. Charges for attendance of marshal & deputies before commissioner in the following cases, and on the days specified; disallowed, being previous to arrest of def'ts' case vs. Keiver, Feb'y 26, 1858.. 6 00

" " Young, " 16, " .. 6 00

73 " " Little, March 30 & 31, 1858.... 12 00

24 00

24, ab. 4. " " Boyd, charge for attending, March

27th, of marshal & deputies. Susp'd until it is shown that def't was before the commissioner on that day..	6 00
Carried over.....	$2,733 45
Am't bro't forward.....	$2,733 45

June term, 1858.

25, ab. 5. Overcharge in Dr. Martin's bill for attendance Peter Kramer; 12 visits at 75 cts., is $9; not $10 50, as charged. Disall'd.....	1 50
Commissions recharged.....	300 15
	$3,035 10

CREDIT DIFFERENCES.

Report No. 8,408.

Error in addition of ab. 3, Nov. term cir. ct.....	$2	
Short charge for pay't to Wm. M. Allen for meals furnished jury, (see vo. 10, ab. 6, a/c for Dec. T., '57,) $32 37. Charged $27 50.....	4 87	
Com's all'd more than charged, Dec. T.....	06	

Report No. 9,301.

Ab. 4. a/c for June T., dis. court, error in addition.	12 00	
" 5. " " " " "	100 00	
Deduct also amount admitted by the marshal to be due U. S. under former bond improperly bro't forw'd in a/c under bond of 7th Ap'l, '57	2,800 39	
		2,919 32
Showing difference as first above.....		$15 78

74, 75 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States circuit court held at Baltimore City, April term*, 1857.

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors.	No. 1.	206	00
" " " petit jurors.	2.	1,374	60
" " " witnesses	3.	155	00
" " " marshal.	4.	285	33
" jailer's fees, & expenses of supporting prisoners, &c.	5.		
" contingent expenses of court.....	6.	1,163	52
" marshal's com's on above, less am't of ab. No. 4, a 2 p'r ct.....		57	99
		$3,242	44
Balance.....		4,807	95
Dollars		8,050	39

CR.

By draft No. 4,452, dated April 20, 1867, on P. F. Thomas, depository, Baltimore, Md.....	5,250	00
" balance from March term, 1857.	2,800	39
Dollars	8,050	39

DISTRICT OF MARYLAND, *sct:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the aforegoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

Subscribed:

JOHN W. WATKINS,
U. S. Marshal District of Maryland.

Subscribed and sworn to this 13 day of June, in the year 1857, before me.

JOHN HANAN,
U. S. Comm's. for Md.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

Circuit court.—April term, 1857.

I, William F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the within account of John W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct.

WILLIAM F. GILES.

76, 77 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States district court held at Baltimore City, June term, 1857.*

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors	No. 1	354	00
" " " petit jurors	" 2	1,012	00
" " " witnesses	" 3	420	00
" " " marshal	" 4	281	70
" jailer's fees, & expenses of supporting prisoners, &c.	" 5	470	80
" contingent expenses of court	" 6	514	13
Marshal's com's on the above, less am't of ab. No. 2, *a* 2 p'r ct.		55	42
		$3,108	05
" balance		5,499	90
Dollars		8,607	95

By draft No. 4,785, dated 18 June, 1857, on Jno. T. Mason, dep'y, Baltimore, Md	3,800	00
" balance from April term, 1857.	4,807	95
	8,607	95

DISTRICT OF MARYLAND, *sc:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged

were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS.

Subscribed and sworn to this 28 day of November, in the year 1857, before me.

JOHN HANAN, *U. S. Comm'r.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

District court.—June term, 1857.

I, William F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the above account of John W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct.

WILLIAM F. GILES.

78, 79 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States court held at Baltimore City, September term* 1857.

DR.	Abstract.	Dollars. Cts.	CR.	Dollars. Cents.
To compensation of grand jurors, No.	1		By balance from June term, 1857	5,499 90
" " " petit jurors,	2	368 00		
" " "witnesses	3	221 00		
" " " marshal,	4	344 44		
" jailer's fees, and expenses of supporting prisoners, &c	5	290 15		
" contingent expenses of court	6	355 87		
" marshal's com's on the above, less am't of abs. No. 4, a 2 p'r ct		24 70		
		1,604 16		
Balance		3,895 74		
Dollars		5,499 90	Dollars	5,499 90

DISTRICT OF MARYLAND, *ss:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS.

Subscribed and sworn to this seventh day of December, in the year 1857, before me.

JOHN HANAN, *U. S. Comm'r for Md.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

District court.—Sept. term, 1857.

I, Wm. F. Giles, judge of the district court of the United States for the Maryland district, do hereby certify that I have examined the above account of John W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct, with the exception of forty-one dollars twenty-eight cents charged in the last item in Abstract No. 4, as mileage for serving summons on James L. Maguire.

WILLIAM F. GILES.

80, 81 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States circuit court held at Baltimore City, November term, 1857.*

DR.

	Abstract.	Dollars.	Cts.
To compensation of grand jurors, No.	1	174	
" " " petit jurors,	2	1,377	50
" " "witnesses,	3	477	
" " " marshal,	4	767	13
" jailer's fees, & expenses of supporting prisoners, &c.....	5		
" contingent expenses of court.....	6	985	59
" marshal's com's. on the above, less am't of ab. No. 4, *a* 2 p'r ct.....		56	29
		3,837	51
Balance.....		6,922	49
Dollars		10,760	00

CR.

	Dollars.	Cents.
By draft No. 5,871, dated December 12, 1857, on Jno. T. Mason, deputy, Baltimore, for.....	6,864	26
" balance from Sept. term, 1857.	3,895	74
	$10,760	00

DISTRICT OF MARYLAND, *ss:*

John W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS, *U. S. Marshal.*

Subscribed and sworn to this thirtieth day of March, in the year 1858, before me.

JOHN HANAN, *U. S. Comm'er for Md.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

District court.—November term, 1857.

I, Wm. F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the above account of Jno. W. Watkins, marshal of the United States for the district of Maryland, and find the same to be correct.

WILLIAM F. GILES.

82, 83 *The United States in account-current with John W. Watkins, U. S. marshal, for district of Maryland, for expenses of the United States district court, held at Baltimore City, December term, 1857.*

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors, No.	1	276	00
" " " petit jurors, "	2		
" " " witnesses, "	3		
" " " marshal, "	4	384	23
" jailer's fees, & expenses of supporting prisoners, &c. "	5	257	28
" contingent expenses of the court "	6	214	
" marshal's com's on the above less am't of ab. No. 4, *a* 2 p'r et		14	95
		1,146	46
Balance		5,776	03
Dollars		6,922	49

	Dollars.	Cents.
By balance from November term, 1857	6,922	49
Dollars	6,922	49

DISTRICT OF MARYLAND, *ss:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith, and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS,
U. S. Marshal.

Subscribed and sworn to this thirtieth day of March, in the year 1858, before me.

JOHN HANAN, *U. S. Comm'n'r for Md.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

District court.—December term, 1857.

I, Wm. F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the above account of Jno. W. Watkins, marshal of the United States for the district of Maryland, and find the same to be correct.

WILLIAM F. GILES.

84, 85 *The United States in account-current with John W. Watkins, U. S. marshal, for expenses of the United States district court held at Baltimore City, March term*, 1858.

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors, No.	1	462	"
" " " petit jurors, "	2	976	"
" " " witnesses, "	3	345	50
" " " marshal, "	4	310	63
" jailer's fees, & expenses supporting prisoners, &c. "	5	351	61
" contingent expenses of court ..... "	6	378	63
" marshal's com's on the above, less am't of ab. No. 4, *a* 2 p'r ct.....		50	28
		$3, 074	65
Balance.....		7, 933	38
		$11, 008	03

	Dollars.	Cents.
By draft No. 6,686, dated April 3, 1858, on Jno. Thompson Mason, deputy, Baltimore...	5,232	
By balance from December term, 1857.....	5,776	03
Dollars	11, 008	03

DISTRICT OF MARYLAND, *ss:*

John W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS.

Subscribed and sworn to this seventeenth day of August, in the year 1858, before me.

JOHN HANAN,
U. S. Commiss. for Dist. of Md.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

In the district court.—March term, 1858.

I, William F. Giles, judge of the district court of the United States in and for the Maryland district, having examined the above account of Jno. W. Watkins, marshal of the United States for the district of Maryland, and find the same to be correct.

WILLIAM F. GILES.

86, 87 *The United States in account-current with John W. Watkins, U. S. marshal, for expenses of the United States circuit court held at Baltimore City, April term*, 1858.

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors,	No. 1	488	00
" " " petit jurors,	" 2	1,615	25
" " " witnesses,	" 3	357	
" " " marshal.	" 4	555	30
" jailer's fees, & expenses of supporting prisoners, &.	" 5		
" contingent expenses of court	" 6	832	
" marshal's com's on the above, less am't of ab. No. 4., *a* 2 p'r ct		63	33
		3,910	83
Balance		4,022	55
Dollars		7,933	38

	Dollars.	Cents.
By balance from March term, 1858	7,933	38
Dollars	7,933	38

DISTRICT OF MARYLAND, *ss:*

Jno. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS.

Subscribed and sworn to this seventeenth day of August, in the year 1858, before me.

JOHN HANAN,
U. S. Commiss. for the Dist. of Md.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

Circuit court.—April term, 1858.

I, Wm. F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the above account of Jno. W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct, with the exception of $78 charged as mileage in Abstract No. 4, as the witness summoned resided in the city of Baltimore, the place of the marshal's residence.

WILLIAM F. GILES.

88, 89 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States district court held at Baltimore, June term, 1858.*

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors	No. 1		
" " " petit jurors,	" 2	270	00
" " " witnesses,	" 3	22	50
" " " marshal,	" 4	346	67
" jailer's fees, & expenses of supporting prisoners, &c.	" 5	354	65
" contingent expenses of court	" 6	256	00
" marshal's com's on the above, less am't of ab. No. 4., *a* 2 p'r ct		18	06
		1,267	88
Balance		2,754	67
Dollars		4,022	55

	Dollars.	Cents.
By balance from April term, 1858	4,022	55
	4,022	55

DISTRICT OF MARYLAND, *ss:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS,
U. S. Marshal District of Maryland.

Subscribed and sworn to this twenty-second day of September, in the year 1858, before me.

JOHN HANAN, *U. S. Commiss'r.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

District court.—June term, 1858.

I, Wm. F. Giles, judge of the district court of the United States in and for the Maryland district, do hereby certify that I have examined the above account of John W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct.

WILLIAM F. GILES.

90 *D'ft No. 4,452 on treasury warrant No. 4,059.*

$5,250. TREASURY OF THE UNITED STATES,
Interior. *Washington, June 20, 1857.*

At sight pay to John W. Watkins, U. S. marshal, or order, five thousand two hundred and fifty dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 4,452. Registered April 20, 1857. $5,250.

F. BIGGER,
Register of the Treasury.

P. F. THOMAS, *Depository U. S., Baltimore.*

"Endorsed:"

JOHN W. WATKINS *U. S. Marshal.*

Paid 22d April, 1857.

PHILIP F. THOMAS, *Depository.*

Treasury. Interior Warrant. Interior, No. 4,059. Appropriation exp's of courts of 91 U. S.

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, U. S. marshal dist. of Maryland, or order, out of the appropriation named in the margin, five thousand two hundred and fifty dollars, on acc't of his expenditures; and for which sum the said John W. Watkins is to charged and held accountable. For so doing, this shall be your warrant.

Given under my hand and the seal of the treasury this eighteenth day of April, in the year one thousand eight hundred and fifty-seven, and of independence the 81st.

{ SEAL'S PLACE. }

HOWELL COBB,
Secretary of the Treasury.

W. H. W.
$5,250. R. & E. 20.
W. H. W. Countersigned:

E. WHITTLESEY, *Comptroller.*

Recorded 20.

T. BIGGER, *Register.*

BALTIMORE, MD.—Received for the above warrant draft No. 4,452, on P. F. Thomas, dep., Balto., $5,250.

———.

D'ft No. 4,785 on treasury warrant No. 4,392.

$3,800 00. Interior.

TREASURY OF THE UNITED STATES,
Washington, June 18, 1857.

At sight pay to John W. Watkins, U. S. marshal, or order, three thousand eight hundred dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 4,785. Registered June 18, 1857. $3,800.

T. BIGGER,
Register of the Treasury.

JNO. T. MASON, *Dep., Baltimore.*

92 "Endorsed:"

JOHN W. WATKINS, *U. S. Marshal.*

Paid 19 June, 1857.

JNO. T. MASON, *Depository*

Treasury. Interior Warrant. Interior, No. 4,392. Appropriation exp's of courts of U. S.

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, U. S. marshal for the district of Maryland, or order, out of the appropriation named in the margin, three thousand eight hundred dollars, on account of his expenditures; and for which sum the said John W. Watkins is to be charged and held accountable. For so doing, this shall be your warrant.

{ SEAL'S. PLACE. }

Given under my hand and the seal of the treasury this seventeenth day of June, one thousand eight hundred and fifty-seven.

HOWELL COBB,
Secretary of the Treasury.

W. H. W.
$3,800. R. & E. 18.
W. H. W. Countersigned:

W. MEDILL, *Comptroller.*

Recorded 18.

T. BIGGER, *Register.*

93 BALTIMORE, MD.—Received for the above warrant draft No. 4,785, on Jno. T. Mason, dep., Balto., $3,800.

JOHN W. WATKINS.

D'ft No. 4,994 *on treasury warrant No.* 4,612.

$1,225 00. Interior.

TREASURY OF THE UNITED STATES,
Washington, July 23d, 1857.

At sight pay to John W. Watkins, U. S. marshal, or order, one thousand two hundred and twenty-five dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 4,994. Registered July 23d, 1857. $1,225.

T. BIGGER.
Register of the Treasury.

JNO. T. MASON, *Dep., Baltimore.*

Endorsed:

JOHN W. WATKINS, *U. S. Marshal.*

Paid 24 July, 1857.

JNO. THOMPSON MASON,
Depository.

Treasury. Interior Warrant. Interior, No. 4,612. Appropriation exp's of

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, marshal for the dist. of Maryland, or order, out of the appropriation named in the margin, twelve hundred and twenty-five dollars, on acc't of his expenditures; and for which sum the said John W. Watkins is to be charged and held account-

No. 4,452. Registered April 20, 1857. $5,250.

F. BIGGER,
Register of the Treasury.

P. F. THOMAS, *Depository U. S., Baltimore.*

"Endorsed:"

JOHN W. WATKINS *U. S. Marshal.*

Paid 22d April, 1857.

PHILIP F. THOMAS, *Depository.*

Treasury.
Interior
Warrant.
Interior,
No. 4,059.
Appropriation
exp's of
courts of
91 U. S.

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, U. S. marshal dist. of Maryland, or order, out of the appropriation named in the margin, five thousand two hundred and fifty dollars, on acc't of his expenditures; and for which sum the said John W. Watkins is to charged and held accountable. For so doing, this shall be your warrant.

Given under my hand and the seal of the treasury this eighteenth day of April, in the year one thousand eight hundred and fifty-seven, and of independence the 81st.

{ SEAL'S PLACE. }

HOWELL COBB,
Secretary of the Treasury.

W. H. W.
$5,250. R. & E. 20.
W. H. W. Countersigned:

E. WHITTLESEY, *Comptroller.*

Recorded 20.

T. BIGGER, *Register.*

BALTIMORE, MD.—Received for the above warrant draft No. 4,452, on P. F. Thomas, dep., Balto., $5,250.

———.

D'ft No. 4,785 *on treasury warrant No.* 4,392.

$3,800 00.
Interior.

TREASURY OF THE UNITED STATES,
Washington, June 18, 1857.

At sight pay to John W. Watkins, U. S. marshal, or order, three thousand eight hundred dollars $\frac{}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 4,785. Registered June 18, 1857. $3,800.

T. BIGGER,
Register of the Treasury.

JNO. T. MASON, *Dep., Baltimore.*

92 "Endorsed:"

JOHN W. WATKINS, *U. S. Marshal.*

Paid 19 June, 1857.

JNO. T. MASON, *Depository*

Treasury.
Interior
Warrant.
Interior,
No. 4,392.
Appropriation
exp's of
courts of
U. S.

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, U. S. marshal for the district of Maryland, or order, out of the appropriation named in the margin, three thousand eight hundred dollars, on account of his expenditures; and for which sum the said John W. Watkins is to be charged and held accountable. For so doing, this shall be your warrant.

{ SEAL'S. PLACE. } Given under my hand and the seal of the treasury this seventeenth day of June, one thousand eight hundred and fifty-seven.

HOWELL COBB,
Secretary of the Treasury.

W. H. W.
$3,800. R. & E. 18.
W. H. W. Countersigned:

W. MEDILL, *Comptroller.*

Recorded 18.

T. BIGGER, *Register.*

93 BALTIMORE, MD.—Received for the above warrant draft No. 4,785, on Jno. T. Mason, dep., Balto., $3,800.

JOHN W. WATKINS.

D'ft No. 4,994 *on treasury warrant No.* 4,612.

$1,225 00.
Interior.

TREASURY OF THE UNITED STATES,
Washington, July 23d, 1857.

At sight pay to John W. Watkins, U. S. marshal, or order, one thousand two hundred and twenty-five dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 4,994. Registered July 23d, 1857. $1,225.

T. BIGGER.
Register of the Treasury.

JNO. T. MASON, *Dep., Baltimore.*

Endorsed:

JOHN W. WATKINS, *U. S. Marshal.*

Paid 24 July, 1857.

JNO. THOMPSON MASON,
Depository.

Treasury.
Interior
Warrant.
Interior,
No. 4,612.
Appropriation
exp's of

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, marshal for the dist. of Maryland, or order, out of the appropriation named in the margin, twelve hundred and twenty-five dollars, on acc't of his expenditures; and for which sum the said John W. Watkins is to be charged and held account-

94 courts of U. S. able for; and for so doing, this shall be your warrant. Given under my hand and the seal of the treasury this twenty-second day of July, in the year one thousand eight hundred and fifty-seven.

{ SEAL'S PLACE. }

HOWELL COBB,
Secretary of the Treasury.

W. H. W. R. & E. 20.
$1,225. Countersigned
W. H. W.

W. MEDILL, *Comptroller.*

Recorded 23d.

T. BIGGER, *Register.*

BALTIMORE, MD.—Received for the above warrant draft No. 4,994, on Jno. T. Mason, dep., Balto., $1,225.

———.

D'ft No. 5,871 *on treasury warrant No.* 5,473.

$6,864$\frac{26}{100}$. TREASURY OF THE UNITED STATES,
Interior. *Washington, December* 12, 1857.

At sight pay to John W. Watkins, U. S. marshall, or order, six thousand eight hundred and sixty-four dollars $\frac{26}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 5,871. Registered Dec. 12, 1857. $6,864$\frac{26}{100}$.

T. BIGGER,
Register of the Treasury.

JOHN T. MASON, *Dep., Baltimore.*

95 Endorsed:

JOHN W. WATKINS, *U. S. Marshal.*

Paid 14 Dec'r, 1857.

JNO. THOMPSON MASON, *Depository.*

Treasury. Interior Warrant. Interior, No. 5473. Appropriation exp's of courts of U. S.

Treasury Department to Samuel Casey, Treasurer of the United States, greeting:

Pay to John W. Watkins, U. S. marshal for the dist. of Maryland, or order, out of the appropriation named in the margin, six thousand eight hundred and sixty-four dollars and twenty-six cents, on acc't of his expenditures, and for which sum the said J. W. Watkins is to be charged and held accountable.

Given under my hand and the seal of the treasury this eleventh day of December, in the year one thousand eight hundred and fifty-seven, and of independence the 82d.

{ SEAL'S PLACE. }

HOWELL COBB,
Secretary of the Treasury.

R. & E. 12.
$6864 26. Countersigned:
W. H. W.

W. MEDILL, *Comptroller.*

Recorded 12. T. BIGGER, *Register.*

Present.

96 Received for the above warrant draft No. 5,871, on Jno. T. Mason, dep., Balto., $6,864 26.

JOHN W. WATKINS.

D'ft No. 6,686 *on treasury warrant No.* 6,300.

$5,232 00. TREASURY OF THE UNITED STATES,
Interior. *Washington, April 3d,* 1858.

At sight pay to J. W. Watkins, U. S. marshal, or order, five thousand two hundred & thirty-two dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 6,686. Registered April 3d, 1858. $5,232.

T. BIGGER,
Register of the Treasury.

JNO. T. MASON, *Dep., Baltimore.*

Endorsed:

JOHN W. WATKINS, *U. S. Marshal.*

Paid 5 April, 1858.

JNO. THOMSON MASON,
Coll. & Depository.

Treasury. Interior Warrant. Interior. 97 No. 6300. Appropriation exp's of courts of U. S.

Treasury Department to the Treasurer of the United States, greeting:

Pay to J. W. Watkins, U. S. marshal for dist. of Maryland, or order, out of the appropriation named in the margin, five thousand two hundred and thirty-two dollars, on acc't of his expenditures, and for which sum the said J. W. Watkins is to be charged and held accountable. For so doing, this shall be your warrant.

Given under my hand and the seal of the treasury this second day of April, in the year one thousand eight hundred and fifty-eight, and of independence 82d.

{ SEAL'S PLACE. }

HOWELL COBB,
Secretary of the Treasury.

W. H. W. R. & E. 3.
$5,232 00. Countersigned:
W. H. W.

W. MEDILL, *Comptroller.*

Recorded 3.

T. BIGGER, *Register.*

Received for the above warrant, draft No. 6,686, on Jno. T. Mason, dep., Balto., $5,232.

JOHN W. WATKINS.

Then rested, & thereupon the defendants, by their counsel, moved the court to instruct the jury as follows, viz:

That the plaintiffs are not entitled to recover in this case, upon the evidence furnished by said treasury transcript, on the adjustment
98 of the accounts of said Watkins, as marshal under said bond of 7 April, 1857, because no notice to said Watkins of said transcript or adjustment is averred or proved.

But the court refused to grant said prayer, & thereupon the defendants excepts, & this his bill of exceptions is signed, sealed, and enrolled this 24 Jan'y, 1865.

WILLIAM F. GILES. [SEAL.]

Second exception.

After the evidence and ruling stated in the aforegoing exception, made a part hereof, the defendants read in evidence the statement of differences, No 16,824, made out by the accounting officers of the treasury, made a part hereof.

No. 16,824.—Statement of differences.

Balance due the U. S., per treasury adjustment	$3,823 97
" " " marshal, per his last a/c current	2,367 02
Differences	$6,329 24

Arising as follows:

Difference per report 15,721		$9,837 56	
Less warrant No. 4,145, charged to him per report No. 12,999, and now credited by the marshal	7,662 00		
Marshal brings forward bal. from Sept. T., 1860, of $1,426 08, instead of bal. of $361 87, shown to be claimed by him in last statement of differences	1,787 95	9,449 95	387 61
99 Add am't of warrant No. 184, credited to him per report No. 14,839, & now charged by him			1,286 36
Making difference now outstanding			$1,673 97

Add. diff. now made:

A/c for Nov. T., 1860, cir. court:

1. Ab. 2. Error in addition $16 37, ch'd $15 89, all'd for payments to petit jurors	48 00
2. Ab. 4. Marshal charges $50 for summoning 35 jurors, allow $11 66, & disallow	38 34
3. Commissions disallowed as forfeited under the act of 3 March, 0797	48 82
4. Am't charged by mar. in this a/c for advances made on work for census, disallowed. No advances were made except at his estimates for court expenses, as shewn by the treasury warrants. It does not appear that this sum is claimed for the marshal's services, nor that it has been disbursed by him. In no case, however, is it chargeable in these accounts	4,375 70

	5. Error in carrying bal. due mar. from a/c for Dec. term, '60, to March T., 1861	2 00
	Over	6,186 83
	Br't over	6,186 83
	a/c for Dec. T., 1860, dis. court:	
	6. Ab. 1. Error in addition of ab; $112 chg'd, $96 allowed.	16 00
	7. Ab. 4, vou. 1. Case vs. Moore, att. of Dep's Vance and Watkins before comm'r, 6 Dec., disallowed. Same day charged in case vs. Jones & Kellogg	4 00
	8. Ab. 4, vou. 1. Case vs. Smith, att., same dep's, Dec. 20, disallowed. Same day ch'g'd in case vs. Henry	4 00
100	9. Com's disallowed as above	30 66
	a/c for March T., 1861, dis. c't:	
	10. Ab. 2. Error in carrying am't of ab. to a/c current; $96 ch'g'd, $90 allowed	6 00
	11. Ab. 3. Am't p'd witnesess, Jamison, Sawyer, M. Hiser, & Wm. Hiser, $1 50 each, suspended until order of court is produced to shew that payment was authorized	6 00
	12. Commissions disallowed as like charges above	5 57
	a/c for April T., 1861, cir. c't:	
	13. Ab. 4. Per diem for marshal's attendance, May 27, 28, 31, & June 3, disallowed. Mr. Watkins was not marshal after the 15th May. His successor was allowed pay for these days	20 00
	14. Ab. 4. Charge for summoning jury suspended till the number of jurors is given	50 00
	15. Ab. 6, vou. 1 & 3. Am't paid M. S. Watkins and John H. Marriatt for attendance as bailiffs, May 27, 28, 31, & June 3d, disallowed. Other bailiffs appointed by Marshal Bonifant were allowed for said days. (See item 13 above)	16 00
	16. Commissions charged in this a/c current disallowed for same reason as like charges above	7 68
		$6,352 74
	Bro't up	6,352 74

Deduct the following credit differences:

	a/c for Dec. T., 1860, dis. c't:	
	Ab. 3. Error in carrying am't of ab. to a/c current; $753 ch'g'd, $754 50 allowed	1 50
101	Ab. 4. Error in addition 1st page; $184 83 ch'g'd, $186 83 allowed	2 00
	a/c Nov. T., 1860, cir. c't:	
	Ab. 4. Error in addition, 1st page; $273 30 ch'g'd, $277 30 allowed	4 00

A|c Mar. T., '61, cir. c't:

Ab. 4. Error in addition; $238 23 charged, $239 23/100 allowed	1 00	
Warrant No. 62, dated 29 Ap'l, '61, not charged by the marshal	15 00	
		23 50
Net debit differences		$6,329 24

For the purpose of showing that the credit therein stated as 4th item, amounting to $4,375 70, had been presented & disallowed at the Treasury Department; & then the defendants offered to prove that the said amount of $4,375 70 therein claimed had been disbursed by said marshal in pursuance of orders of the Hon. Jacob Thompson, then Secretary of the Interior Department, for the purpose of executing the laws of the United States for the taking of the census, with the execution of which law the said Secretary was charged, and that such disbursement was necessary & proper; but the district attorney of the United States, expressly waiving notice of the said item by way of set-off under the rules of this court, objected to the admissibility of the proof so proposed to be offered, on the ground that no account of the particulars of said item had been given, & in making said objection, the district attorney introduced three accounts-current of said Watkins for June, September, & November terms, 1860, made a part hereof.

102, 103 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States district court held at Baltimore City, June term*, 1860.

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors.	No. 1	302	00
" " " petit jurors..	"	530	00
" " " witnesses.	"	43	50
" " " marshal..	" 4	232	46
" jailer's fees, & expenses of supporting prisoners, &c.	" 5	406	67
" contingent expenses of cou	" 6	204	00
" marshal's com's on the above, less am't of ab. 4, *a* 2 p'r ct		29	68
		1,748	31
1		1,126	13
	Dollars	2,878	44

	Dollars.	Cents.
By draft No. , dated , 18 , on , ,		
" balance from April term, 1860.	2,874	44

DISTRICT OF MARYLAND, *sct:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstract and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court, that the disbursements charged, and all the expenses stated therein, were necessary and proper,

& were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS,
U. S. Marshal D't of Md.

Subscribed and sworn to this 25 day of October, in the year 1860, before me.

JOHN HANAN, *U. S. Comm'r.*

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

I, William F. Giles, judge of the district court of the United States for the district of Maryland, do hereby certify that I have examined the foregoing account and vouchers of John W. Watkins, marshal of the United States for the Maryland district, and find the same to be correct.

WILLIAM F. GILES.

104, 105 *The United States in account-current with John W. Watkins, U. S. Marshal for the district of Maryland, for expenses of the United States district court held at Baltimore City, September term,* 1860.

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors.	No. 1		
" " " petit jurors.	2	456	00
" " " witnesses	3	70	50
" " " marshal.	4	226	66
" jailor's fees, & expenses of supporting prisoners, &c.	5	193	20
" contingent expenses of court	6	516	00
" marshal's com's on the above, less am't of ab. No. 4, *a* 2 p'r. ct.		25	64
		1,488	00
Dollars			

Dollars.	Cents.
By draft No.—, dated—— 18—, on	

DISTRICT OF MARYLAND, *ss:*

J. W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstract & vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

(Subscribed) JOHN W. WATKINS,
U. S. Marshal for the District of Md.

Subscribed and sworn to this 2d day of June, 1862, before me.

JOHN HANAN,
U. S. Commissioner.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

I, William F. Giles, judge of the district court of the United States in and for the district of Maryland, do hereby certify that I have examined the above account of John W. Watkins, marshal for the district of Maryland, and find the same to be correct.

WILLIAM F. GILES.

106, 107 *The United States in account-current with John W. Watkins, U. S. marshal for the district of Maryland, for expenses of the United States circuit court held at Baltimore City, November term, 1860.*

DR.

	Abstract.	Dollars.	Cents.
To compensation of grand jurors	No. 1		
" " " petit jurors	" 2	1,637	
" " " witnesses	" 3	49	00
" " " marshal	" 4	430	80
" jailer's fees, & expenses of supporting prisoners, &c	" 5	128	10
" contingent expenses of the court	" 6	627	50
" marshal's com's on the above, less am't of ab. No. 4, *a* 2 p'r ct		48	82
		2,921	22
By warrant in my favor of the Treasurer, No. 184, dated 21 Dec'r, 1861		1,286	36
By advances made on work for the census, and unpaid		4,375	70
Dollars		8,583	28

	Dollars.	Cents
By draft No. 4,620, dated November 18th, 1860, on John T. Mason, dep't	7,662	00
Balance on hand from September term	1,426	08
	9,088	08
	8,583	28
	$504	80

DISTRICT OF MARYLAND, *sc:*

John W. Watkins, marshal of the United States for the district of Maryland, being duly sworn, deposes and says that the services stated in the foregoing account, and in the abstracts and vouchers therein referred to, have been rendered as therein stated; that the supplies charged were furnished for and used by the court; that the disbursements charged, and all the expenses stated therein, were necessary and proper, and were paid in good faith; and that all the items charged are correct and legal, and the amounts thereof justly due to him as therein stated, as he verily believes.

JOHN W. WATKINS,
U. S. Marshal for the District of Maryland.

Subscribed and sworn to this 21st day of February, in the year 1863, before me.

JOHN HANAN,
U. S. Commissioner for Md.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

I, William F. Giles, judge of the district and circuit courts of the

United States for the district of Maryland, do hereby certify that I have examined the foregoing accounts and vouchers of John W. Watkins, marshal of the United States for the Maryland District, and find the same to be correct, except the two last items on the credit side of the account, for which no vouchers have been shewn to me, and of which I know nothing. WILLIAM F. GILES.

108 & thereupon the court excluded all of said evidence offered in support of said item, & the defendants except; and this, their bill of exceptions, is signed, sealed, and enrolled this 24th January, 1865. WILLIAM F. GILES. [SEAL.]

And now here, at this day, to wit, the 28th day of January, in the year of our Lord one thousand eight hundred and sixty-five, the said John W. Watkins, Hannibal H. Chase, & Solomon H. Phillips produced to the said district court here the writ of the United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings aforesaid of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday of April next; which said writ of error is in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA:

The President of the United States of America to the judge of the district court of the UnitedStates in and for the Maryland district, greeting:

{ SEAL'S PLACE. }

Because in the record and proceedings, as also in the rendi-
109 tion of the judgment of a plea which is in the said court before you, between the United States of America, plaintiffs, and John W. Watkins, Hanibal H. Chase, & Solomon H. Phillips, defendants, a manifest error hath happened to the great damage of the said defendants, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the circuit court of the United States for the fourth circuit in and for the Maryland district, together with this writ, so that you have the same at Baltimore on the first Monday in April next, in the said circuit court then and there to be held, that, the record and proceedings aforesaid being inspected, the said circuit court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-four.

Issued 28 January, 1865. JAS. W. CHEW, *Clk Cir. C't.*

110 The United States of America to William Price, district attorney of the United States in and for the Maryland district, greeting:

You are hereby cited and admonished to be and appear at a circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday in

April next, pursuant to a writ of error filed in the clerk's office of the district court of the United States in and for the Maryland district, wherein John W. Watkins, Hanibal H. Chase, & Solomon H. Phillips are plaintiffs in error, and the said United States of America are defendants in error, to show cause, if any there be, why the judgment rendered against the said John W. Watkins, Hannibal H. Chase, & Solomon H. Phillips, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this thirtieth day of January, in the year of our Lord one thousand eight hundred and sixty-five.

WILLIAM F. GILES. [SEAL.]

I acknowledge notice of the above citation.

WILLIAM PRICE, *Dist. Att'y U. S.*

111 In pursuance whereof, and in accordance to the form and effect of the statute in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, together with the said writ of error, are hereby transmitted to the said circuit court accordingly.

Writ of error bond.

Know all men by these presents, that we, John W. Watkins, H. H. Chase, John D. Hammond, & Jacob Trust, are held and firmly bound unto the United States of America in the just and full sum of five thousand dollars, to be paid to the said United States, or their certain attorney; to the payment whereof, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this 28th day of January, eighteen hundred and sixty-five.

Whereas the said United States did obtain a judgment against John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips in the district court of the United States for the district of Maryland, at the December term, in the year of our Lord eighteen hundred and sixty-four, from which judgment the said John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips have sued out a writ of error, returnable the next term of the circuit court of the said United States for the fourth
112 circuit in and for the district of Maryland:

Now the condition of the above obligation is such that if the said defendants shall not cause a transcript of the record and proceedings of the said district court to be transmitted to the said circuit court within the time appointed by law, and prosecute the said writ of error with effect, and also satisfy and pay to the said United States, or its certain attorney, in case the said judgment shall be affirmed, the debt, damages, costs, and charges adjudged in the district court aforesaid, as also all damages, costs, and charges that may be awarded in the said circuit court, then the said bond to be and remain in full force and virtue; otherwise of no effect.

JOHN W. WATKINS. [SEAL.]
H. H. CHASE. [SEAL.]
JOHN D. HAMMOND. [SEAL.]
JACOB TRUST. [SEAL.]

Which said bond is thus endorsed, to wit:

"Bond approved January 30th, 1865.

"WILLIAM F. GILES."

In testimony that the aforegoing is a true copy, taken and made from the record and proceedings of the district court aforesaid, I hereunto subscribe my name and office, the seal of the said district court, this thirty-first day of January, in the year of our Lord one thousand eight hundred and sixty-five

{ SEAL'S PLACE. }

JAMES W. CHEW,
Clerk District Court.

113 And now here, to wit, on the first Monday in April, in the year of our Lord one thousand eight hundred and sixty-five, come into the circuit court here, as well the said John W. Watkins and Hannibal H. Chase (plaintiffs in error), by their attorneys aforesaid, as the said United States (defendants in error), by their attorney aforesaid.

And afterwards, to wit, on the 25th day of April, in the year last aforesaid, the court filed the following opinion, to wit:

JOHN W. WATKINS & HANNIBAL H. CHASE, plaintiffs in error, *vs.* THE UNITED STATES. } Error to the district court for the district of Maryland.

The suit below was by the United States, on the bond of John W. Watkins, as marshal of the district of Maryland, against himself and sureties. The breach alleged was non-payment into the treasury of the amount found due the United States, on examination and adjustment of his accounts. It comes here by writ of error from the district court.

Two bills of exception are contained in the record. Under the first it is insisted that the United States, plaintiffs below, were not entitled to recover the amount found due by the accounting officers, because no notice to Watkins of the treasury transcript or of the adjust-
114 ment & amount found due, was averred and proved.

I cannot think such notice necessary. The act of March 3, 1797, requires suit to be brought against any officer who neglects or refuses to pay the balance reported due on the adjustment of his account by the officers of the treasury, and makes a transcript of the proceedings, resulting in the determination of the balance, evidence of its amount.

The act of January 31, 1823, requires all officers to render their accounts quarterly, for examination and adjustment, accompanied by proper vouchers. Upon such rendition the officer making it is charged with what he has received, and credited with what he has lawfully paid. He must be presumed to have, and in general actually has full knowledge of the settlement and its result. If there be a balance against him the duty of immediate payment arises. If he neglects it, the law requires suit. It makes no provision for notice or demand; nor is either required by any legal principle applicable to the circumstances; the first exception, therefore, cannot be sustained.

The second exception shows that the defendant Watkins, in the settlement of his accounts with the Treasury Department, claimed an allowance of $4,375 70, for advances made by him in payment for work on the census of 1850, & that this claim was disallowed. It also shows that he offered to prove on the trial that this sum was disbursed by
115 him as marshal, in pursuance of the orders of Jacob Thompson, Secretary of the Interior, for the purpose of executing the law for taking the census, with the execution of which the Secretary was

charged, and that the disbursement was necessary and proper; but that this evidence was excluded by the court from the consideration of the jury.

A series of decisions by the Supreme Court, commencing with Wilkins against the United States, 6 Wheaton, 135, has broadly established the principle that defendants in suits by the United States for the recovery of money demands are entitled to the full benefit of any legal or equitable credits arising out of the transactions on which the suits are founded, or any other transactions by way of set-off to the demands sued on.

In the case of Gratiot against the United States, 15 Peters, 371, the court held substantially that evidence of credits claimed on settlement, after due presentment at the treasury & disallowance, should be allowed to go to the jury, unless clearly illegal. The court held that to warrant the exclusion of such evidence, some law must be shown which directly, or by just implication, prohibits the allowance of the disputed items, or of any part of them. The cases of the United States against McDaniel, the United States against Ripley, & the United States against Villebrown, 7 Peters, 1, 18, & 28, were referred to on this occasion, as correct expositions of the law; & these cases expressly assert the right of a defendant to set off, as equitable credits, allowances made by the head of a department, which the accounting officers had rejected,
116 & were obliged by their official duty to reject as illegal. These cases certainly carried the principle of set-offs, in suits by the United States, very far—very far, indeed; but they bind this court, and I should be obliged to say, if the facts of presentment & disallowance were properly shewn by the bill of exceptions, that, since it is not impossible that the Secretary of the Interior required such disbursements by the marshal in taking the census, as would constitute equitable credits in his accounts with the government, evidence of such disbursements should have been permitted to go to the jury.

But the bill of exceptions does not properly or sufficiently show presentment & disallowance.

All the cases agree, and so, too, are the express words of the law, that no evidence can be given of credits not duly claimed at the treasury & disallowed, except under circumstances which do not exist in this case; and it seems clear that the law makes it essential to a proper presentment that a full statement of the credit claimed, with the items of which it is composed, & the vouchers sustaining them, shall be submitted to the officers of the treasury for examination. Otherwise there can be no intelligent scrutiny, and no rational decision. (1)

In the case under consideration, it is not stated in the bill of exceptions, or shewn by the record that any statement of items was furnished, or that any vouchers were submitted to the accounting
117 officers, in support of the claim of credit. On the contrary, it is distinctly asserted in the treasury statement, embodied in the bill of exceptions, that it did not appear that the sum claimed by the marshal was for services as marshal, or that it had been disbursed by him. It is impossible to say that this claim was presented in such a form that it could be properly examined & passed upon. No foundation, therefore, was laid for the proof of this claim as a set-off, as the evidence offered in support of it was properly excluded.

The counsel for the plaintiffs in error seem to think that the necessity of showing proper presentment of the claim, with statement of items

(1) United States vs. Giles, 9 Cranch, 237.

& vouchers, was waived by the counsel of the United States. But I understand this waiver to refer only to the furnishing of a bill of particulars, under the 41st rule of this court. It did not, and, as I think, could not apply to the mode in which the claim was submitted to the accounting officers.

The judgment of the district court must therefore be affirmed.

Whereupon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, being seen and fully understood by the court here, and mature deliberation thereupon had, for it appears to the court here that there is no error either in the record and
118 proceedings aforesaid, or in the giving judgment aforesaid;

Therefore it is considered by the court here that the judgment aforesaid, given in form aforesaid, be in all things affirmed, and stand in full force and effect.

And now here, at this day, to wit, on the fourth day of May, in the year of our Lord one thousand eight hundred and sixty-five, the said John W. Watkins and Hannibal H. Chase produced to the said circuit court the writ of the United States of America for the correction of errors of and upon the premises, commanding the record and proceedings aforesaid, of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States to be held at the city of Washington on the first Monday in December next; which said writ of error is in the words, and of the tenor following, to wit:

119 THE UNITED STATES OF AMERICA:

The President of the United States of America to the judges of the circuit court of the United States for the fourth circuit in and for the Maryland district, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court before you, between the United States of America, plaintiff, and John W. Watkins, Hanibal H. Chase, & Solomon H. Phillips, defendants, a manifest error hath happened to the great damage of the said defendants, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under you seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first Monday in December next in the said Supreme Court then and there to be held, that, the record and proceedings aforesaid being inspected,

{ SEAL'S PLACE. }

the said Supreme Court may cause further to be done therein to
120 correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-four.

Issued 4 May, 1865.

JAS. W. CHEW, *Clk Cir't C't.* [*C't.*]

121 In pursuance whereof, and in accordance with the form and effect of the statute in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as afore-

said rendered, with all things concerning the same, with the said writ of error, are hereby transmitted to the Supreme Court accordingly.

Writ of error bond.

Know all men by these presents, that we, John W. Watkins, H. H. Chase, John D. Hammond, and Jacob Trust, are held and firmly bound unto the United States of America in the just and full sum of five thousand dollars, to be paid to the said United States, or their certain attorney; to the payment whereof, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this 3rd day of May, eighteen hundred and sixty-five.

Whereas the said United States did obtain a judgment against John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips in the circuit court of the United States for the fourth circuit in and for the Maryland district, at the April term, in the year of our Lord eighteen hundred and sixty-five, from which judgment the said John W. Watkins, Hanibal H. Chase, and Solomon H. Philips have sued out a writ of error, returnable to the next term of the Supreme Court of the United States:

122 Now the condition of the above obligation is such, that if the said defendants shall not cause a transcript of the record and proceedings of the said circuit court to be transmitted to the said Supreme Court within the time appointed by law, and prosecute the said writ of error with effect, and also satisfy and pay the said United States, or its certain attorney, in case the said judgment shall be affirmed, the debt and damages adjudged in the circuit court aforesaid, as also the debt and damages that may be awarded in the said Supreme Court, then the said bond to be and remain in full force and virtue; otherwise of no effect.

JOHN W. WATKINS. [SEAL.]
H. H. CHASE [SEAL.]
JOHN D. HAMMOND. [SEAL.]
JACOB TRUST. [SEAL.]

Bond approved.
18th Dec'r, 1865.

WILLIAM F. GILES.

123 The United States of America to William I. Jones, district attorney of the United States for the fourth circuit in and for the Maryland district, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be held at the city of Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein John W. Watkins, Hanibal H. Case, & Solomon H. Phillips are plaintiffs in error, and the said United States of America are defendants in error, to shew cause, if any there be, why the judgment rendered against the said John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this 18th day of Dec'r, in the year of our Lord one thousand eight hundred and sixty-five.

WILLIAM F. GILES. [SEAL.]

Acknowledg'd notice of the above citation.

W. I. JONES.

DECEMBER 18*th*, 1865.

124

125 In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court this eighteenth day of December, in the year of our Lord one thousand eight hundred and sixty-five.

{ SEAL'S } { PLACE. }

JAMES W. CHEW,
Clerk Circuit Court.

And now here, at this day, to wit, the seventh day of January, in the year of our Lord one thousand eight hundred and sixty-nine, the said John W. Watkins, Hanibal H. Chase, & Solomon H. Phillips produced to the said circuit court here the writ of the said United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all concerning the same, to be transmitted to the Supreme Court of the United States to be held at the city of Washington on the first Monday in December next; which said writ of error is in the words and of the tenor following, to wit:

(Second) writ of error.

126

127 THE UNITED STATES OF AMERICA:

The President of the United States of America to the judges of the circuit court of the United States for the fourth circuit in and for the Maryland district, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court before you, between the United States of America, plaintiff, and John W. Watkins, Hanibal H. Chase, & Solomon H. Phillips, defendants, a manifest error hath happened, to the great damage of the said defendants, as by their complaint appears:

{ SEAL'S } { PLACE. }

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first Monday in December next in the said Supreme Court then and there to be held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable S. P. Chase, Chief Justice of our
128 Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-eight.

Issued the 7th day of January, A. D. 1869.

JAMES W. CHEW,
Clerk Circuit Court.

129

130 In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, the transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court accordingly.

Citation.

131 . The United States of America to Andrew Sterett Ridgely, district attorney of the United States in and for the Maryland district, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States of America to be held at the city of Washington on the first Monday in December next, pursant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips are plaintiffs in error, and the said United States of America are defendants in error, to shew cause, if any there be, why the judgment rendered against the said John W. Watkins, Hanibal H. Chase, and Solomon H. Phillips, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this seventh day of January, in the year of our Lord one thousand eight hundred & sixty-nine.

WILLIAM F. GILES. [SEAL.]

I acknowledge notice of the above citation, without prejudice.
Jan. 7th, 1869.

AND'W STERETT RIDGELY,
U. S. Dist. Att'y for Md.

132

133 In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I { SEAL'S PLACE. } hereunto subscribe my name and affix the seal of the said circuit court here this seventh day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

JAMES W. CHEW,
Clerk Circuit Court.

IN THE

Supreme Court of the United States,

December Term, 1869.--No. 203.

JOHN W. WATKINS, HANNIBAL CHASE, et al.

vs.

THE UNITED STATES.

BRIEF OF PLAINTIFF IN ERROR.

IN THE

Supreme Court of the United States,

December Term, 1869.--No. 203.

JOHN W. WATKINS, HANNIBAL CHASE, et al.

VS.

THE UNITED STATES.

BRIEF OF PLAINTIFF IN ERROR.

This is a suit by the United States against John W. Watkins and his sureties on his Bond as Marshal, dated 7th April, 1857, brought in the District Court of the United States for the Maryland District, in which the United States recovered a judgment for $2,211.31, (Record 12.) From this judgment the defendants appealed to the United States Circuit Court for the Maryland District, where it was affirmed.—(Record 50.)

The defendants demurred to the declaration, and assigned as causes of demurrer the following:

1. The defendant, J. W. Watkins, is charged with not making, as Marshal of the United States, "true returns of all the public moneys belonging to the said United States, by him had and received or which came into his hands in and during the said term of office, without stating what moneys he did receive, from whom and when he received them, and which of them and what amount he failed to return or pay over.

2. The said defendant, J. W. Watkins, is charged with not having as Marshal, "rendered his accounts quarter-yearly to the proper accounting officers of the treasury, with the vouchers necessary to a correct and prompt settlement thereof, within three months after the expiration of each successive quarter," without stating which of his quarterly accounts were behindhand, what vouchers he failed to produce, and who was the proper accounting officer to whom the same should have been rendered.

3. The defendant, J. W. Watkins, is charged with not having as Marshal, paid "into the treasury of the United States all the sums and balances of the public moneys reported to be due to the said United States upon the adjustment of his accounts," in the treasury, without stating that said sums and balances were in fact due, or what officer adjusted the balances, or what officer reported the amounts to be due.

4. The defendant J. W. Watkins, it is charged, as Marshal as aforesaid, did not pay into the treasury all the surplus of the fees and emoluments of his office over and above the allowances authorized to be retained by him, without stating what were the fees and emoluments he actually received, or the amount he was authorized to retain by law.

The demurrer as to the *first* three breaches was overruled, and sustained as to the *fourth*.

The declaration is on pages 2, 3, and the demurrer and judgment thereon on pages 7, 8, of the Record.

The plaintiffs in error will maintain that the judgment of the Court below on the demurrer to the first three breaches, was erroneous.

1 Chitty's Plg., 616, 618, and cases cited in the notes.
6 American, from 5th London Ed.
3d Chitty's Plg., 1176, 1177, 1178, 1179.
2 Harris' Entries, 350, 356, 387, 410, 411.

The defendant then pleaded performance, &c. Rec. 9.

PLAINTIFFS' FIRST BILL OF EXCEPTIONS.

The United States, to maintain the issue on their part joined, produced a treasury transcript containing the various treasury accounts found in the Record from page 12 to 42, and

there rested their case. Whereupon the defendants prayed an instruction to the jury that the United States could not recover "because no notice to said Watkins of said transcript or adjustment is averred or proved," which instruction the Court refused to give.

The defendants will maintain that such notice was necessary.

Act 3d March, 1797, Ch. 20, sec. 1, (1st S. L. 512.)
U. S. vs. Giles, 3d Cond., Rep. 402, 403.

The language of the Act is—

"That when any revenue officer or other person accountable for public money shall neglect or refuse to pay into the treasury the sum or balance *reported* to be due to the United States, upon the adjustment of his account, it shall be the duty of the comptroller, and he is hereby required to institute suit for the recovery of the same, adding to the sum stated to be due on such account, the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per cent. per annum, from the time of receiving the money until it shall be repaid into the treasury."

What does the word "*reported*" mean? Reported to whom? Surely to the delinquent. He may not know he is delinquent. This is a penal law in some of its aspects, and should be construed strictly and most favorably for the debtor; for it *forfeits* (a word of penalty) his commissions; and in every *instance* when suit is commenced and judgment obtained, interest on the money from the time it came into his hands.

Can it be supposed then that so serious a penalty would be inflicted without the law requiring notice of delinquency to be given to the defendant. To whom else can the word *reported* apply except to the defendant?

The money received, in this case, by Watkins, was not money which ought to have been paid over as soon as received; as for example money collected on executions; but it was money deposited by the Government with him to be used for the Governments' purposes, and only returnable upon demand made.

DEFENDANT'S SECOND BILL OF EXCEPTIONS.

The defendant then read in evidence the statement of differences, No. 16,824, made out by the accounting officer of the treasury, among which will be found an item of $4,375.70, charged by the Marshal and disallowed; (Rec. 42, 43, 44,) the admissibility in evidence of which was objected to by the attorney of the United Stated, because "*no account of the particulars of said item had been given*" *to the accounting officers of the treasury.* And the District Court sustained the objections. And whether the Court was right in excluding said evidence is the question raised by the 2d Bill of Exceptions.

The character of the defendants claim for $4,375.70, sought to be set off is fully explained in the affidavit made for a continuance, on Record page 10. In brief it is a claim for so much money expended by the defendant Watkins, as Marshal, under the orders of the then Secretary of the Interior, in taking the census. It is not pretended that the claim is not a just one; or that its justice could not be established by competent evidence; but that the evidence is inadmissible in support of it, because the items of expenditure making up the $4,375.70, were not furnished in detail to the accounting officers of the treasury.

The plaintiffs in error will maintain—

1. The right to set off such sum in an action on a Marshal's Bond.

The defendant is entitled to the benefit of any credit in his favor, whether arising out of the particular transaction for which he is sued, or out of distinct and independent transactions which constitute a legal or equitable set off, in whole or in part, of the debt sued for by the United States.

U. S. vs. Wilkins, 6 Wheaton, 135.
" " Giles, 9 Cranch, 237.
" " McDaniel, 7 Peters, 1.
" " Ripley, 7 " 18.
" " Fillebrown, 7 " 28.
" " Ringgold, 8 " 150.
" " Gratiot, 15 " 336.

2. The Act of Congress does not require that the account in bar should be set out with particular detail. The language

is "that in suits between the United States and individuals, no claim for a credit shall be admitted upon trial but such as shall appear to have been presented to the accounting officers of the treasury for their examination, and be disallowed in whole or in part," &c. Act 3d March, 1797, sec. 4.

1 S. L., 515.

3. Even if the several items making up an account in bar ought generally to be presented to the officers of the treasury, under the circumstances of this case it was unnecessary because they decided that as to this item in *no case would it be allowed*—(Rec. 42, foot of the page.)

The practice of the accounting officers is to call for vouchers, for items, and for explanations when these are required. This very account, No. 16,824, shows it—(Rec. 43.)

As it is evident then that the accounting officer decided to disallow the claim no matter with how much of detail the account might be *itemized*, the whole question resolves itself into this: because the items were not furnished, are the defendants barred from it? Who has been or can be injured by a failure to present the details? Not the United States certainly; for had they been furnished the officers would not even have looked at them.

The maxim, that the law will not require a thing to be done which it would be useless to do, applies. There never was a case where it could apply more strongly.

The justice of the claim is not denied.

The right to have it set off in a suit on Marshal's bond is settled.

The right to set it off was denied by the treasury officers, so that no minuteness of account could there have produced a different result.

They made no objections for want of minuteness, and if they had done so it could readily have been corrected.

It is a maxim of our legal authors, that the law will not itself attempt to do an act which would be vain, *lex non frustra facit*—nor to enforce one which would be frivolous. *Lex neminem cogit ad vana seu inutilia.* "The law will not, in the language

of the old reports, enforce any one to do a thing which will be vain and fruitless."

Broom's Legal Maxims, 231.
(5th American, from 3d London Edition.)
3d Johnson's Reports, 598.

WM. MEADE ADDISON,
Attorney for Plaintiffs in Error.

of the old reports, believe any one [illegible] thing which will be
vain and frivolous.

[illegible]

(Silk Auction [illegible] 2d Reading Tuesday.)

2d Johnson's Reports, 393.

WM. MEDLICOTT ADDISON.

In the Supreme Court of the United States.

DECEMBER TERM, 1869.

JOHN W. WATKINS, *et al.*, *Plaintiffs in Error*,
vs.
THE UNITED STATES. } No. 203.

In error to the Circuit Court of the United States for the district of Maryland.

BRIEF OF THE UNITED STATES.

I.

The bond of the marshal was given under the 27th section of the act of September 24, 1789, (1 Stat., 187.) The duty of the marshal to render his accounts quarter-yearly, &c., of public moneys which he is not authorized to retain as salary, pay, or emolument, is prescribed by the second section of the act of January 31, 1823, (3 Stat., 723.) The semi-annual account of fees and emoluments is required by the third section of the act of February 26, 1853, (10 Stat., 165.) The fourth section of the act of May 8, 1792, (1 Stat., 277,) declares for what purposes money shall be paid to the marshal out of the Treasury of the United States.

This suit is for a breach of the bond, in not making true returns and rendering accounts and paying into the

Treasury what was due of such public moneys upon the adjustment of such accounts. The demurrer was sustained, so far as it alleged that the fourth breach assigned was not sufficient in law, which breach alone related to the fees and emoluments of the marshal. This prevented the plaintiffs from introducing any evidence under the fourth breach assigned. The demurrer was rightly overruled, as the other assignments are good, being in effect that certain sums had been reported to be due to the United States upon the adjustment of his accounts at the Treasury Department, &c., which sums he had not paid. (2 Wm. Saunders R., 411.) A bill of particulars was filed by the United States. (Printed transcript, p. 8.) This alleged error was not considered by the circuit court, and was probably not raised there.

II.

The first exception (p. 42, printed transcript) is, that after the United States had put in the authenticated transcript from the Treasury Department as evidence,

the defendants, by their counsel, moved the court to instruct the jury as follows, to wit: "That the plaintiffs are not entitled to recover in this case upon the evidence furnished by said Treasury transcript, on the adjustment of the accounts of said Watkins as marshal under said bond of the 7th of April, 1857, because no notice to said Watkins of said transcript or adjustment was averred or proved."

No such notice was necessary.

Walton *vs.* The United States, 9 Wheat., 651.

Smith *vs.* The United States, 5 Pet., 292.

The sum or balance *reported* to be due to the United States upon the adjustment of his account means the sum or balance found due by the Comptroller and certified to the Register, under the act of September 2, 1789, (1 Stat., p. 65,) in force at the time of the passage of the act of March 3, 1797. (1 Stat., 512.) The rights of the defendant were secured by the fourth section of the last-named act. At any time before trial he could present his claim for credit to the accounting officers of the Treasury for their examination; and if at the time of the trial he was in possession of vouchers not before in his power to procure, and he was prevented from exhibiting a claim for such credit to the Treasury Department, by absence from the United States, or some unavoidable accident, he could prove the claim at the trial.

United States *vs.* Hawkins, 10 Pet., 125.

III.

The census of 1860 was taken pursuant to the act of March 23, 1850. (9 Stat., 428.)

The second exception of the defendant is found on pages 42, 44, and 47 of the printed transcript. The correctness of the ruling rests on the reasons given in the opinion of the circuit court, (Printed transcript, pp. 49, 51.) The amount claimed was not for compensation due the marshal, but for what he alleged were advances made by him. The objection to the admissibility by the United States attorney of the evidence of this claim for credit was, that no account of the particulars of said item had been given to the accounting officers of the Treasury.

The third section of the act of March 3, 1797, (1 Stat., 514,) makes it the duty of the court to grant a judgment at the return term, upon motion, unless the defendant shall, in open court, the United States attorney being present, make oath or affirmation that he is equitably entitled to credits which had been, previous to the commencement of the suit, *submitted to the consideration of the accounting officers of the Treasury and rejected, specifying each particular claim* so rejected in the affidavit.

The fourth section provides that no claim for a credit shall be admitted upon trial but such as shall appear to have been presented to the accounting officers of the Treasury for their examination, and by them disallowed, in whole or in part, unless it should be proved,

&c., that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States, &c.

It appears in the certificte of the district judge to the account of the marshal, (Printed transcrtpt, p. 47,) that this item, with one other, was not certified to by the judge as correct, and that no vouchers for these items were shown to the district judge. It would seem that no vouchers of any kind were presented to the accounting officers of the Treasury for their examination; and it did not appear at the time of trial that the marshal was in possession of vouchers not before in his power to procure, and that he had been prevented from exhibiting these vouchers at the Treasury by absence from the United States, or some unavoidable accident. It is plain that it is not enough to make a general claim, without a statement of items, and without vouchers to the accounting officers of the Treasury, and if they disallow it, as they must, surprise the United States by proving it as a set-off at the trial of the suit.

The statement of this claim in the account by Watkins is as follows: "By advance made on work for the census and unpaid, $4375, 70." (Printed transcript, p. 16.) In the statement of differences, in explanation of the disallowance of this item, the accounting officer says, "Amount charged by marshal in this account for advances made on work for census, disallowed. No advances were made, except at his estimates for court